



Agenda
Subdivision & Development Appeal Board Hearing
September 7, 2023 at 2 p.m.
Town of Canmore Civic Centre Council Chambers

- 1. Call to Order**
- 2. Adoption of Agenda**
- 3. Adoption of Minutes**
Minutes of the June 23, 2023 Hearing
Minutes of the July 7, 2023 Hearing
- 4. Appeal Hearing**
PL20230120
630 1st Street
Lot 23, Block 77, Plan 9910432
Air Conditioning Unit within a Side Yard Setback
Appeal against a refusal by the Canmore Development Authority.
- 5. Other Business**
None.
- 6. Adjournment**

**TOWN OF CANMORE
MINUTES**

Subdivision and Development Appeal Board Hearing
Council Chamber at the Canmore Civic Centre, 902 – 7 Avenue
June 23, 2023, at 1:00 p.m.

1. CALL TO ORDER

The Chairperson called the meeting to order at 1:17 p.m.

MEMBERS PRESENT

Mr. Peter Moreland-Giraldeau (Chair)	Public Representative
Mr. Andre Giannandrea	Public Representative
Ms. Darlene Jehn	Public Representative
Jolene Noël	Clerk
Allyssa Rygersberg	Recording Secretary/Clerk

MEMBERS ABSENT

Public Representatives:

ADMINISTRATION STAFF PRESENT

Marcus Henry	Planning and Development Supervisor
Eric Bjorge	Development Planner
Caitlin Miller	Manager of Protective Services

2. ADOPTION OF HEARING MEETING AGENDA

It was moved by the Chairperson that the agenda of June 23, 2023 be adopted as presented.

MOTION CARRIED

3. ADOPTION OF MINUTES

It was moved by the Chairperson that the Minutes of the May 18, 2023 Appeal Hearing be adopted as presented.

MOTION CARRIED

4. APPEAL HEARING PL20230120

APPLICATION DETAILS

Appeal against a refusal by the Canmore Development Authority of Development Permit PL20220268.

APPELLANT INTRODUCTION AND OPPORTUNITY FOR ANY OBJECTIONS

The Appellant, Leah and Ron Lechelt, identified themselves to the Board.

The Chairperson asked the Appellant if they had any objections to the Board Members present hearing the appeal. The appellant indicated that they did not receive notice of the hearing until Tuesday, June 20, 2023. There were no other objections.

The Chairperson asked the Appellants if they received a copy of the agenda package that was distributed to the Board and if they have any concerns about any of the information provided. There were no objections.

HEARING OUTLINE

The Chairperson outlined the hearing process for all present.

There were no objections from the Appellant or anyone in the audience.

PRESENTATION OF THE STATUTORY REQUIREMENTS OF THE APPEAL

Eric Bjorge presented the application, appeal date timelines and requirements.

The Chairperson noted that the statutory requirements of the appeal had been satisfied.

The Board proceeded with the hearing.

ADMINISTRATION'S PRESENTATION OF THE APPLICATION AND DECISION

Eric Bjorge gave a verbal and visual presentation detailing the application and why the decision to refuse the application was made. Eric Bjorge responded to questions from the Board.

APPELLANTS PRESENTATION OF THE APPLICATION AND DECISION

The Appellant provided a verbal and visual presentation to the Board. The Appellant responded to questions from the Board.

LIST OF THOSE SPEAKING IN FAVOUR OF THE APPEAL

None.

CORRESPONDENCE RECEIVED IN FAVOUR OF THE APPEAL

None.

LATE CORRESPONDENCE RECEIVED IN FAVOUR OF THE APPEAL

2 written submissions were received in favour of the appeal, after the Agenda Package was circulated. The written submissions were from the following:

1. Written correspondence was received from Alasdair Russell, owner of Russell and Russell Design Studios on June 21, 2023.
2. Written correspondence was received from Colleen Weatherhog, owner of Allweather Builders on June 22, 2023.

The Chairperson moved that these 2 submissions be accepted to form the record.

MOTION CARRIED
UNANIMOUSLY

LIST OF THOSE SPEAKING IN OPPOSITION TO THE APPEAL

Stuart Aarden provided a verbal presentation to the Board.

David Burghardt provided a verbal presentation to the Board.

Andrea Jung, owner of 628 1st Street provided a verbal presentation to the Board.

Gaye Harden, owner of 626 1st Street provided a verbal presentation to the Board.

Dave and Dana Lougheed, owner of 634 1st Street provided a verbal presentation to the Board.

LIST OF CORRESPONDENCE RECEIVED IN OPPOSITION TO THE APPEAL

4 written submissions were received in opposition of the appeal. Located on pages 81 - 85 of the agenda package. The written submissions were from the following:

1. Written correspondence was received from Brett and Pam Adams, visitors to 628 1st Street.
2. Written correspondence was received from Levi Adams, visitors to 628 1st Street.
3. Written correspondence was received from Adrienne Blazo, adjacent property owner.
4. Written correspondence was received from Tim Burghardt, visitors to 628 1st Street.

LATE CORRESPONDENCE RECEIVED IN OPPOSITION OF THE APPEAL

4 written submissions were received in opposition of the appeal, after the Agenda Package was circulated. The written submissions were from the following:

1. Written correspondence was received from David Burghardt on June 23, 2023.
2. Written correspondence was received from Andrea Jung, on June 23, 2023.
3. Written correspondence was received from Gaye Harden, owner of 626 1st Street on June 23, 2023.
4. Written correspondence was received from Dave and Dana Lougheed, owner of 634 1st Street on June 23, 2023.

The Chairperson moved that these 4 submissions be accepted to form of the record.

MOTION CARRIED
UNANIMOUSLY

LIST OF THOSE SPEAKING NEITHER IN FAVOUR NOR IN OPPOSITION OF THE APPEAL

None.

LIST OF CORRESPONDENCE RECEIVED NEITHER IN FAVOUR NOR IN OPPOSITION REGARDING THE APPEAL

No written submissions were received neither in favour nor in opposition of the appeal.

COMMENTS/CLARIFICATION BY ADMINISTRATION

The Town Administration, Mr. E. Bjorge, provided closing remarks to the Board, and responded to questions from the Board.

The Town Administration, Ms. C. Miller provided closing remarks to the Board, and responded to questions from the Board.

COMMENTS/CLARIFICATION BY THE APPELLANT

Appellant Leah and Ron Lechelt provided concluding remarks to the Board and responded to questions from the Board.

FAIR HEARING

The Chairperson asked if the Appellant felt that they had received a fair hearing.
The Appellant agreed that they had.

The Chairperson asked if the Applicant felt that they had received a fair hearing.
The Applicant agreed that they had.

The Chairperson announced this portion of the hearing closed and that, in accordance with the provincial legislation, the Board is required to hand down its decision within 15 days from today's date. No decision is binding until the Board issues a written decision.

5. ADJOURNMENT

The Chairperson moved that the hearing of June 23, 2023 be adjourned at 3:34 p.m.

MOTION CARRIED
UNANIMOUSLY

Mr. Moreland-Giraldeau, Chair

Ms. Rygersberg, SDAB Clerk

**TOWN OF CANMORE
MINUTES**

Subdivision and Development Appeal Board Hearing
Council Chamber at the Canmore Civic Centre, 902 – 7 Avenue
July 20, 2023 at 9:00 a.m.

1. CALL TO ORDER

The Chairperson called the meeting to order at 9:09 a.m.

MEMBERS PRESENT

Mr. Peter Moreland-Giraldeau (Chair)	Public Representative
Mr. Andre Giannandrea (Vice Chair)	Public Representative
Ms. Darlene Jehn	Public Representative
Jolene Noel	Clerk
Sara Jones	Recording Secretary/Clerk

MEMBERS ABSENT

Mr. John McClure (Vice Chair)	Public Representative
Mr. Christoph Braier	Public Representative
Ms. Michelle Cooze	Public Representative
Ms. Karen Marra	Councillor Representative
Ms. Joanna McCallum	Councillor Representative

ADMINISTRATION STAFF PRESENT

Marcus Henry	Planning and Development Supervisor
Eric Bjorge	Development Planner
Brennan Piper	Desktop Support Specialist (Zoom support)

2. ADOPTION OF HEARING MEETING AGENDA

It was moved by the Chairperson that the agenda of July 20, 2023 be adopted as presented.

MOTION CARRIED
UNANIMOUSLY

3. ADOPTION OF MINUTES

It was moved by the Chairperson that the appeal hearing PL20220286 Minutes of the June 23, 2023 be adopted as presented.

MOTION CARRIED
UNANIMOUSLY

4. APPEAL HEARING PL20220286

APPLICATION DETAILS

Appeal against a refusal by the Development Officer for Development Permit PL20220286.

ADMINISTRATION INTRODUCTION

The File Manager, Eric Bjorge, identified themselves to the Board and reintroduced the appeal.

HEARING OUTLINE

This appeal was heard by the Board on June 23, 2023. The Board adjourned the hearing on June 23, 2023 with the intention of seeking advice from the Board's legal counsel regarding jurisdictional authority of the SDAB before proceeding with making a decision on PL20220286.. The legal opinion has been received and the Board was advised they do have jurisdiction to hear and decide on this matter.

COMMENTS/CLARIFICATION BY ADMINISTRATION

The Town Administration answered questions of the Board.

COMMENTS/CLARIFICATION BY THE APPELLANT

The Appellant, Kwok Seto, and the Appellant's Agent, Vincent Koch, indicated they had no further comments and understood that the Board has jurisdiction and would be moving forward with making a decision.

HEARING CLOSURE

The Chairperson asked if the Appellant's Agent had any procedural concerns.

The Appellant's Agent indicated they did not.

The Chairperson asked if the Appellant had any procedural concerns with respect to the hearing.

The Appellant indicated they did not, aside from the audio on Zoom cutting in and out.

The Chairperson announced this portion of the hearing closed and that, in accordance with the provincial legislation, the Board is required to hand down its decision within 15 days from today's date. No decision is binding until the Board issues a written decision.

5. ADJOURNMENT

The Chairperson moved that the public hearing of July 20, 2023 be adjourned at 9:24 a.m.

MOTION CARRIED
UNANIMOUSLY

Mr. Moreland-Giraldeau, Chair

Ms. Jones, SDAB Clerk

**Notice of Appeal
Received May 30, 2023**



NOTICE OF APPEAL Application Form

To help expedite processing your application, the submission of this form using the fillable fields is greatly appreciated.

PROPERTY INFORMATION			
Municipal Address 630 - 1st Street		Development Permit/Subdivision Application File Number PL20230120	
APPELLANT INFORMATION			
Name of Appellant Leah & Ron Lechelt		Agent Name (If applicable)	
Mailing Address (for notification purposes) 630 - 1st Street			
City Canmore	Province Alberta	Postal Code T1W 2L2	
Phone Number (Day) [REDACTED]		Email [REDACTED]	
<input checked="" type="checkbox"/> The appellant/agent, gives authorization for electronic communication by the Clerk, using the email provided on this Notice of Appeal			

APPEAL AGAINST (Check one box only. For multiple appeals you must submit separate Notice of Appeal forms)

Development Permit	Subdivision Application	Stop Order
<input type="checkbox"/> Approval <input type="checkbox"/> Conditions of Approval <input checked="" type="checkbox"/> Refusal	<input type="checkbox"/> Approval <input type="checkbox"/> Conditions of Approval <input type="checkbox"/> Refusal	<input type="checkbox"/> Stop Order

REASONS FOR APPEAL Section 678 and 686 of the Municipal Government Act requires that the written Notice of Appeal must contain specific reasons for the appeal.

I do hereby appeal the decision of the Subdivision/Development Authority for the following reasons (attach a separate page if required)

Please refer to the attached notice of appeal letter and request to approve the variance dated May 30, 2023.

FOIP Notification: This personal information is being collected under the authority of the Municipal Government Act (MGA) and the Freedom of Information and Protection of Privacy Act (FOIP) and is managed in accordance with the provisions of FOIP. If you have any questions about the collection of your personal information, contact the Municipal Records Officer at municipal.clerk@canmore.ca. Please note, the Municipal Clerk's Office should **only** be contacted regarding FOIP inquiries.

Signature of appellant/agent Ronald Lechelt <small>Digitally signed by Ronald Lechelt DN: C=CA, E=ron.a.lechelt@gmail.com, CN=Ronald Lechelt Date: 2023.05.30 23:49:29-0500</small>	Date (MM/DD/YYYY) 05/30/2023
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Lechelt *May 30/23*



Town of Canmore

902 - 7th Avenue
Canmore, Alberta T1W 3K1
Phone: (403) 678-1500
GST Registration #: R108125444

Received From

RONALD A. LEHELDT
630 1ST STREET
CANMORE, AB T1W 2L2

Receipt Number: 20232355
Receipt Date: 2023-05-30
Date Paid: 2023-05-30
Full Amount: 250.00

Payment Details:	Payment Method	Amount Tendered	Check Number
	Visa	250.00	

Amount Tendered: \$250.00
Change / Overage: 0.00

FEE DETAILS:

Fee Description	Reference Number	Amount Owing	Amount Paid
SDAB Appeal Fee	PL20230120	\$250.00	\$250.00

The Town of Canmore
Planning and Development Department
Main Floor 902 7th Avenue
Canmore, Alberta
T1W 3K1

May 30, 2023

Re: Appeal of Decision - PL20230120

Dear Members of the Canmore Subdivision Appeal Board:

On behalf of homeowners and full-time Canmore residents Ron and Leah Lechelt, please accept this notice of appeal regarding Decision PL20230120, along with our request to approve the requested variance.

Context

The Town of Canmore Planning and Development Department rejected the homeowners' request for a variance to accommodate an air conditioning unit that projects into the property's east side yard. The ADUP's rationale for the decision was as follows:

- Section 2.4.3.1 of the Land Use Bylaw prohibits the projection of air conditioning units into required side yard setbacks.
- The required side yard setback in the R1 district is 1.5m. The air conditioning unit has been installed at 0.9m from the property line, projecting 0.6 m into the required side yard setback. A variance of this magnitude (40%) is beyond the authority of the Development Officer to consider, in accordance with section 1.14.1.1 of the Land Use Bylaw.

We wish to appeal this decision on eleven grounds, all of which are described beginning on page 4, followed by our recommendations for future consideration.

Background

We, the appellants, Ron and Leah Lechelt, had central air conditioning operating in our Edmonton home between 1998 and 2017. The basis for air conditioning was as follows:

- Seasonal allergies and smoke sensitivity, both of which can provoke severe asthma episodes in Ron, Leah, and one of our children. Reducing or eliminating outdoor environmental triggers and allergens has been essential in our household for 30 years, and mechanical cooling has proven to be far superior to natural cooling (opening windows) for health reasons.
- The need for a comfortable work environment as Leah operated an incorporated consulting business from the residence and had other staff in the home.

We purchased a recreational home in Canmore in 2013 and moved to that home permanently in 2017. However, the house lacked air conditioning, and from 2017 onward, both Leah and Ron suffered severe allergy-induced asthmatic events due to snow mold, grass, and airborne pollen in the spring, and forest fire smoke in the summer and fall. We considered renovating the home and adding air conditioning, but instead opted to purchase a teardown property on 1st Street to build a new home. The property was purchased in October 2020 and construction began in January 2021. We assumed residency on June 27, 2022.

COVID-related supply chain disruptions caused numerous delays with materials and the construction of the home. In particular, the air conditioning unit specified by our builder was back ordered and was not installed until July 14, 2022 – approximately two weeks after our move-in date. The outside temperatures in June/July 2022 had soared to the mid-30-degree Celsius range. With the house doors/windows continuously open during construction, no window coverings upon move-in, and no air conditioning unit installed, the temperature inside the house rose to an unbearable +28C.

The back-ordered air conditioning unit was finally installed on July 14. It operated continuously for a few days to cool the house to an acceptable temperature, and then operated intermittently thereafter until integration with the furnace was completed on August 9, which is when the final back-ordered air conditioning components arrived. Within one week of the August installation completion, two neighbors approached us with noise complaints. Full details of these discussions are described in **Appendix A**.

The unit only operated for 3.5 weeks in 2022; then on Sept. 3 we left for vacation and turned off the air conditioning unit for the season. On November 24, 2022, we were advised by Municipal Enforcement that a noise complaint had been received, and on Nov. 28, 2022, we were advised by the Planning Department that a complaint had been received regarding the side yard setback requirement of the Land Use Bylaw.

In the Spring of 2023, we applied for a side yard setback variance and our request was refused on May 10, 2023. It is the subject of this appeal.

Our HVAC details

At the start of design and construction of our new home, we had given our house designer and builder the direction that we wanted to comply with all LUB requirements and not seek any variances, and indeed this criteria was met as the house design was approved by the Planning Department as submitted. Unfortunately the drawings did not show an air conditioning unit on the submitted drawings.

Our residence serves as the corporate head office for our consulting business, and we both work primarily from home. We are in the home 24 hours a day, seven days a week. A comfortable temperature is essential for our workplace, and optimal air quality is necessary for our underlying medical conditions.

We gave the home and HVAC supplier direction to incorporate several criteria that we believed would be crucial to effective and efficient use of air conditioning:

- Specify the smallest and quietest unit that could effectively cool a home of this size.
- We specified (at considerable expense) 25% more vented ducting to increase air exchange to optimize inside air quality.
- We specified (again at considerable expense) a zone-based thermostat system that would allow us to program separate cooling patterns in four rooms in the house at as-needed times; this would ensure air conditioning energy is primarily directed to the rooms requiring cooling rather than the entire house. Details are:

- Independent cooling in two home offices (during work hours)
- Independent cooling of a studio during exercise/workout hours (early morning)
- Master bedroom cooling maintained throughout the day/night to ensure a comfortable sleeping temperature.
- To address asthma and air quality issues, we:
 - Specified and had installed a Heat Recovery Ventilator/Energy Recovery Ventilator (HRV/ERV) to improve indoor air quality.
 - Installed MERV 13 furnace air filtration to collect air dust particulates as small as 0.3 microns.
 - Continue to use localized HEPA filters within certain rooms on an as-needed basis.

It wasn't until after we received our occupancy permit and the back-ordered air conditioning unit was installed that we became aware (through our builder) of a potential change in bylaws that could affect the Town's tolerance for air conditioning units installed within side yard setbacks. By this time the house was fully constructed and occupied, and there was little we could do to change the house design or location of the unit.

Our air conditioning unit has the following specifications (see **Appendix B** data sheet):

- Heil NH4A4 Performance 14 Compact Central Air Conditioner
- Small, compact size for aesthetic appearance and minimal footprint
- Noted for its quiet performance (~ 66 decibels)
- Non-ozone depleting R-410A refrigerant

Other mitigation measures

Prior to and after assuming occupancy of our new home, we undertook the following measures to maintain optimal temperatures in the house and reduce the reliance on air conditioning:

- Installed energy Star 2020, triple-pane, Low-E (reflects radiant heat), argon filled windows throughout the home.
- Applied heat-reducing and UV reflecting film ("Vista") to all south and west facing windows and patio doors. Vista[®] NXA 20 ER HPR film reflects 74% of solar energy to reduce inside cooling consumption demand.
- Applied upgraded R-24.5 closed cell spray foam insulation throughout entire building envelope.
- Ordered window coverings three weeks before occupancy (June 4) and installed them six weeks after occupancy.

Basis for our appeal of decision PL20230120

With respective backgrounds in health care (CEO level) and engineering and construction (consulting business owner and project director), we have had the opportunity to use our background knowledge to critically assess the evolving air conditioning bylaw issue we are facing. Below are details on our 11 main points of consideration.

A. LUB Setback considerations

1. Setbacks specified in the LUB are unreasonable in that they lead to unfavourable treatment of the Lechelt's reduced-size residential lot.

According to a letter issue by the firm that designed our home (**Appendix C**), the setbacks specified in the LUB have not been adjusted to accommodate the unconventionally shallow length of the lots on the north side of 1st Street, where our home is situated:

"The lots north of 1st Street are 10m shorter than a standard Town lot. These lots were altered to provide a lane which was not included at time of subdivision.

*This 25% reduction in length has not been considered or compensated in the LUB therefore, the entire 10m reduction is taken out of the building envelope not the setbacks. A standard 40m deep lot has a building envelope depth of 26.5m where-as the Lechelt's lot has a building envelope depth of 16.92m. **This represents a reduction in envelope depth of 40%** (our emphasis). The consequences of reducing the envelope depth without adjusting any setbacks has created lots that are equally expensive but significantly smaller than intended to accommodate standard Canmore homes.*

Due to the reduced building envelope, homes on these lots typically utilise the full building envelope and maximum site coverage. The Lechelt's have placed their AC unit within the sideyard setbacks and were informed that this was acceptable."

2. The intent and function of setbacks (safety, access and aesthetics) are unrelated to the principal concern of neighboring property owners (noise).

Information received from the Planning Department indicates that the principal concern of nearby residents is not the encroachment onto the side yard setback, but rather the noise from the air conditioning unit. This is consistent with informal discussions held with neighbours: that the setback issue is not their primary concern.

The purpose and intent of the yard setbacks stipulated in the LUB are three-fold:

- Emergency and utility access to residential properties
- Fire spread mitigation between adjacent homes
- Residential aesthetics and sightlines

In January 2022, the Town of Canmore contemplated an Omnibus Land Use Bylaw amendment 2021-24 (amendments to Table 2.4-1 in Section 2.4.3.1) that would permit air conditioning equipment to project up to one metre into the side yard, thereby reducing the setback to 0.5 metres. The proposed amendment was based on the knowledge that an air conditioning unit encroaching into the side yard setback does not impede emergency and utility access, nor does it increase the potential for fire spread. Also note that the Lechelt dwelling has an installed fire sprinkler system for fire mitigation, which is an additional protective measure. The aesthetic issue can be addressed through screening (this requirement has been met on the Lechelt unit).

While this section of the Omnibus LUB Bylaw amendment was ultimately defeated, it is worth noting that the submissions considered at the time reaffirm that public concerns about air conditioning units are generally related to **noise** and are not specifically related to setback encroachment.

Furthermore, engineering calculations conducted on the logarithmic aspects of noise attenuation demonstrate that a minor shift in the placement of an air conditioning unit does not materially reduce noise levels. Specifically, calculation of the decibel rating of an air conditioning unit placed within the building pocket versus projecting 0.6 metres into the setback (as in the Lechelt case) show that the unit's 0.6 metre increased distance from the adjacent property line, at a 65 db sound level, would result in only a 1-2 db reduction in sound (see attached calculations in **Appendix D**). It is clear that side yard setbacks are, for the most part, immaterial in providing noise attenuation.

Discussions with members of the construction, design and HVAC community in Canmore have also confirmed that historically, setbacks were rarely enforced with respect to air conditioning units unless there are noise complaints, in which case setbacks may be enforced.

An important question remains: is it possible that the Town is using the wrong tool (LUB setbacks) to address a relatively unrelated issue (noise concerns)? It is our opinion that LUB setbacks should only be used (and enforced) for the purposes for which they make a demonstrable difference: emergency/utility access, fire spread prevention, and residential aesthetics and sight lines.

3. All present options to relocate the air conditioning unit are unfeasible, undesirable, or would worsen the situation.

According to a letter issued by the firm that designed our home (**Appendix C**), there are presently few relocation options that would address noise concerns, and all relocation options come with a considerable financial cost to the homeowners for perhaps little to no noise attenuation benefit.

However, there are two acceptable relocation options that could render our air conditioning unit compliant with the LUB setback requirements; neither option is desirable:

“While Ron and Leah would like to find a solution that help(s) (to) reduce the noise there is very little opportunity at grade and they are currently considering the middle level BBQ deck. This is a far worse location for an AC unit and the noise that might be heard from the neighbouring properties, we would like to avoid this.

A roof top location was also considered however it is too far from the mechanical room to function. The current location is the optimum location for noise attenuation.” (Alasdair Russell, Principal, Russell and Russell).

B. Noise related issues

The objections raised with respect to the Lechelt air conditioning unit appear to be primarily regarding noise and less related to the specific location on the subject property (although it is recognized that location can have a bearing on noise-related matters). This section addresses aspects specific to noise.

4. The Lechelt air conditioning unit falls under the previous noise bylaw (11-97) which excludes air conditioning units from noise bylaw requirements.

The Lechelt air conditioning unit was sized, specified, purchased, and initially installed on July 14, 2022 according to the standards in effect at that time: The Town of Canmore Noise Control By-law 11-97. This By-law specifically excludes air conditioning units from the noise bylaws.

4.4 *This By-law does not apply:*

4.4.4: to Persons using air conditioning and cooling units in either domestic or commercial use if the units appear to be properly maintained and are operated in a normal manner.

Noise By-law 11-97 was repealed on August 17, 2022 and replaced with the Community Standards Bylaw 2022-16 with a section dedicated to noise issues (see next section). However, the installation of the Lechelt unit predates the new Community Standards Bylaw, and therefore we believe our unit should be evaluated according to the standards that were in effect at the time of installation.

It is worth noting that on April 25, 2022, the Subdivision and Development Appeal Board (SDAB) heard a similar appeal (Appeal PL2021 0358) that was based on similar grounds. The SDAB ruled in favour of the appellants, concluding that air conditioning units are excluded from the noise bylaw in effect at that time:

9. *Adjacent neighbour filed a complaint objecting to noise. However, under Section 4.4.4. of the Noise Bylaw the Board could set that aside.*

As suggested to us by SDAP representative Eric Bjorge, Planning Technician with the town's Planning and Development Department, we have obtained verification from the installer of our air conditioning unit that it is installed correctly and is functioning properly (see **Appendix E**).

"The air conditioner installed at 630 1st street was installed and running as manufacturer specs. The unit that was installed at this address is one of the quietest units on the market."
(Vince Stock, Bighorn Sheet Metal)

The unit is less than one year old and has not undergone a maintenance cycle yet. We believe it meets the requirement of Noise By-law 11-97.

5. The new Community Standards Bylaw (2022-16) has inconsistent and ambiguous noise standards

Canmore's new Community Standards Bylaw 2022-16 – passed on August 17, 2022 -- has no specific provisions regarding air conditioning units, and unlike the previous Noise By-law 11-97, air conditioning is neither named nor excluded in the new bylaw. Therefore, it is reasonable to assume that air conditioning units installed in Canmore after Aug. 17, 2022 must comply with the new CSB noise standards (see separate discussion regarding legacy installations).

The new CSB 2022-16 on the one hand specifies maximum permissible sound levels:

1. *A Person shall not cause or permit any noise exceeding a Sound Level of 60 decibels (dBA) as measured at the property line of a property in a Residential Area between the hours of 10:00 p.m. and 7:00 a.m.*

It is important to note that the cooling effects of air conditioning are mostly needed at night, which is the time period governed by noise restrictions.

Yet the bylaw also permits a broad, subjective interpretation of what is considered an acceptable versus unacceptable noise level:

5. *Except as authorized by this bylaw, no Person shall make, cause, continue, or allow to be made, caused, or continued, any noise which is likely to disturb the peace, enjoyment, comfort, or convenience of another individual.*
6. *Except as authorized by this bylaw, no Owner or Occupier of a Premises shall make, cause, continue, or allow to be made, caused, or continued, any noise which emanates from the Premises and which is likely to disturb the peace, enjoyment, comfort, or convenience of another individual.*

Unlike Section 1, the general parameters in Sections 5 and 6 above reflect a wholly subjective noise assessment that has or will undoubtedly lead to disputes between parties regarding whose definition of peace, enjoyment, comfort or convenience takes precedence. For example, does the Lechelt family's medical needs for high indoor air quality supersede the right of neighbors to avoid air conditioner noise, or vice versa? The bylaw is ambiguous in articulating whether the basis on which to assess concerns is subjective, objective or empirically measured.

Furthermore, the CSB permits situations in which a homeowner may be found in contravention of a noise bylaw regardless of any empirical measurement of the sound or noise volume:

9. *A person may be found guilty of a contravention of sections 5 to 8 whether or not the noise*
 - a) is measured, or*
 - b) if measured, exceeds any Sound Level limit prescribed by this bylaw.*

10. *In determining if a noise is likely to disturb the peace, enjoyment, comfort, or convenience of another individual, the following criteria may be considered:*

- a) the type, volume, and duration of the noise,*
- b) the time of day and day of week,*
- c) the nature and use of the surrounding area,*
- d) the Sound Level in decibels, if measured, and*
- e) any other relevant factor.*

The consequences are significant: a homeowner could, in good faith, invest in an air conditioning unit at considerable expense without ever knowing if the equipment will trigger a peace/enjoyment complaint by a neighboring property owner. This is an untenable situation for a homeowner seeking to use a legal, permissible appliance for their own health and comfort purposes.

6. Medical basis for the appellants' need for air conditioning

Ron and Leah Lechelt have clearly articulated an historical medical basis for the benefit of air conditioning. Furthermore, during construction of the home, Leah was diagnosed with a serious, potentially life-threatening condition involving multiple organs, including lungs. For obvious reasons we don't wish to disclose additional private medical information in this public forum but we do have medical documentation available for selected officials to view if we can be assured of confidentiality.

7. We have made reasonable attempts to address concerns from neighbours

As property owners, we were responsive in accepting and reviewing noise complaints from neighbours. However, we were pressured to accept an unworkable solution and were not provided an opportunity to explore other solution options with our builder, HVAC installer, and an external consulting company. A timeline of the conversations and actions we undertook between August 17 and Oct. 31 to respond to neighbour concerns is attached as **Appendix A**.

In recent days (May 27), our HVAC supplier reiterated that the unit should remain on the east side of the property (where it is currently installed) for proximity to the mechanical room (**Appendix E**).

"For the best operating efficiency and reliability, we also recommend the central AC unit be installed within close proximity to where the mechanical room is." (Vince Stock, Bighorn Sheet Metal)

We were also advised that there may be noise attenuating blankets or covers available, but that his company has never installed one (**Appendix E**).

"We can install an insulation blanket on the compressor that might reduce the decibels by an estimated 2 to 5 decibels however we do not have direct experience with these blankets to see these claimed results." (Vince Stock, Bighorn Sheet Metal)

8. The new CSB 2022-16 noise standards can't be met either by legacy air conditioning units or by new units using newer cooling technologies.

We recognize there are complexities regarding the applicability and grandfathering provisions between older bylaws and new, superseding bylaws – and this will be a subject of discussion with respect to the timing of the Lechelt installation given subsequent noise bylaw changes.

However, in most jurisdictions it is common practice to recognize that some new bylaw standards reflect conditions that can be easily modified and met so the homeowner can become compliant (e.g., volume of playing music in one's backyard). On the other hand, for durable/capital goods that cannot be modified or changed by the homeowner (such as an installed air conditioning unit), it is common practice for municipalities to 'grandfather in' the older equipment (which in our case is brand new equipment) and deem it compliant with the new standards.

We checked with our current HVAC installer in Canmore (Bighorn Sheet Metal) and another supplier in Calgary (Calgary Air Heating and Cooling Ltd.). Both confirmed that our unit is the quietest on the market today. Furthermore, the Calgary supplier:

- Provided quotes on the top seven performing air conditioning units on the market today. Decibel ratings range from a low of 66 db to a high of 75 db. Prices range from \$5,800 to \$7,100 plus GST (see **Appendix F**).
 - Confirmed verbally that there are few single-stage units on the market today with a decibel rating below 66 and none below 60. These units tend to perform poorly and are prone to malfunction, and therefore have a manufacturer's warranty of only one year compared to ten years for the 66-70 decibel units available today, which are considered to be the quietest and most reliable.
 - We could not find any HVAC suppliers in Canmore or Calgary that carry the low-decibel unit at 66 decibels is leading edge from a noise attenuation standpoint – and even if we replaced the unit today with a newer model, we still could not comply with the CSB bylaw.
- What is most striking to homeowners like us is that there is no air conditioning unit on the market today that could meet Canmore's noise standard of operating below 60 decibels at night. Our current

Even the April 2022 SDAB ruling on Appeal No. 2022-005 PL20210358 referenced earlier in this email concluded that a 66 dB unit does not produce excessive noise:

"Noise level provided in evidence show the machine operating at 66 dB and that an average street level is 70 dB, and evidence that periods of use are reasonable."

We would therefore expect an approach of accommodation and 'grandfathering' by the Town with respect to the new CSB thresholds given that:

- The decibel rating of our current unit (as well as other currently installed units in Canmore) is not alterable by us as homeowners to meet the new CSB 2022-16 noise/decibel threshold.
- Even if compelled to replace our current unit to meet the new standards, there are no newer models on the market today that would meet the bylaw requirements.

- The enduring nature of air conditioning units and the lengthy life cycle (10-20 years) before replacement means it will be years before current units installed throughout Canmore could be upgraded to meet the new noise bylaw standards.
- The high cost of replacement (currently around \$6,000 to \$7,000) will be a barrier to replacement even if lower decibel units become more widely available and their performance and reliability improves.

7. Municipal Enforcement (Bylaw) lacks the capability to empirically measure the noise of our air conditioning unit.

Canmore's CSB 2022-16 bylaw explicitly defines acceptable measurement criteria when assessing noise complaints:

2 (bb): "Sound Level", unless otherwise defined in this bylaw, means the sound pressure measured in decibels using the "A" weighted network of a Sound Level Meter with fast response;

(cc): "Sound Level Meter" means any Type 2 or better integrating instrument that measures Sound Levels;

Planning and Development advised us to have Municipal Enforcement attend our property and evaluate the noise from the air conditioning unit (**Appendix G**):

"I suggest you coordinate with Municipal Enforcement to complete a noise assessment of the unit and submit the results as part of your appeal materials, to determine whether it's compliant with the Community Standards Bylaw. This would be relevant as the neighborhood objections to the unit focus on noise." (Eric Bjorge, Planning and Development Department)

However, upon reaching out to Municipal Enforcement to have this assessment conducted, we received this response on May 26, 2023 (**Appendix G**):

"I discussed this meeting with my direct supervisor and after further discussion our Municipal Enforcement team will be unable to assist you with any form of Noise Assessment survey due to the fact that our department does not currently have an objective sound measurement device.

With that said you are more than welcome to contact a third party to have a sound assessment survey done for the purposes of your appeal. Apologies again for the confusion."

(Richard Barnes | (He/him) Bylaw Officer #2395)

As homeowners we are left in an untenable situation:

- It is unclear whether our unit falls under the Noise By-law 11-97 that was in effect at the time of installation (i.e., air conditioners are exempt) ... or under the new CSB 2022-16 bylaw.
- It is unclear whether our unit will be grandfathered in -- as it was installed under a previous bylaw.
- It is unclear whether the noise threshold upon which Bylaw will evaluate noise complaints is:
 - Exempt, as per Noise By-law 11-97
 - 60 decibels, as indicated in some sections of CSB 2022-16, or
 - Some other threshold as determined on a situation-by-situation basis by Bylaw officers.

- As homeowners, we are being asked to commission and pay for our own external assessment (see note below on this topic) to defend ourselves against an unclear and ambiguous bylaw.

8. Lack of alignment and coordination between the Land use Bylaw and Community Standards Bylaw.

The above situation with respect to our air conditioning unit is analogous to a peace officer issuing a speeding ticket to a driver without using radar measurement (and without certainty regarding what the speed limit is), but rather basing the ticket on an observation from a pedestrian that the 'driver seemed to be going fast' ... and then expecting the driver to purchase their own radar equipment and mount their own defence in the absence of any posted speed limit (and the peace officer could use their own judgement on a case-by-case basis regarding what constitutes excessive speed).

We also believe there may be an attempt to use Canmore's Land Use Bylaw (LUB) as the instrument to regulate air conditioning noise, despite the reality that the 1.5 metre setback allowance is a relatively immaterial factor with respect to the presence or absence of noise.

Finally, without clear and explicit guidelines on what constitutes an acceptable noise level, and without professional equipment to actually measure noise, it is nearly impossible for Bylaw officers to render a decision in the highly subjective and conflicting perspectives of a noise dispute between neighbours.

A note about noise monitoring equipment

We conducted our own research into noise monitoring equipment (see **Appendix I**) in September 2022 and discovered the following:

- Decibel assessments are complex and must be conducted using professional equipment that is calibrated and used properly to ensure accuracy. Type 2 is the minimum standard for accuracy, and this is also the standard in CSB 2022-16.
- Multi-point assessments over an extended period of time (e.g., 24 hours) provide a far more complete assessment than single-point-in-time measurements.
- Professional equipment costs in the \$600 to \$2,000 range and requires proper training to use and analyze downloaded data.
- Consumer grade measuring devices (e.g., iPhone apps) are unreliable and inadequate for monitoring purposes.

9. Appellants' efforts pre- and post noise issues to interact professionally and positively with neighbours.

Prior to construction, Ron and Leah Lechelt reached out to the homeowners at eight adjacent properties upon acquiring our property (October 2020) to introduce ourselves, advise of the pending demolition and new build, and offer our cell phone numbers in the event there were any questions or concerns.

In January 2021, following demolition, we offered the garden shed on our property free of charge to Neighbour #1. In October 2021 we provided a tour of our framed house to address concerns expressed by Neighbour #1 (recreational property owners) that the placement of windows and sight lines would not trigger any privacy concerns at their residence.

In March 2022 we approached the homeowners at both neighboring properties (Neighbour #1 and #3) regarding collaborating on the construction of a new fence.

In April 2022, we offered a letter in support of Neighbour #1's request for a variance to the rear yard setback to construct a garage. Ironically, like Ron and Leah Lechelt, this neighbour also has challenges with the reduced depth of the lot along the North side of 1st Street.

In May 2022, we offered a letter in support of another adjacent neighbour's request (Neighbour #3 – also a recreational property owner) for a variance to the rear yard setback. This neighbor was also experiencing challenges with the reduced length of the lot along 1st Street.

Despite these efforts to maintain cordial and professional relationships with the neighbours, within six weeks of moving into our new home, and immediately prior to the air conditioning discussions, Neighbor #1 sent a text requesting that we not park on the street in front of their residence (required at times due to an adjacent house build and the amount of construction equipment that was occupying the available street parking). With the ensuing pressure to immediately cease using or relocate the air conditioning unit, the relationship between us has remained strained.

In May 2023, Neighbour #3 (recreational property owners) indicated they are opposed to the air conditioner noise despite not having a residence in Canmore (it is under construction). It is unclear whether Neighbour #3 has actually heard the air conditioner or has perhaps been influenced by other neighbours. Regardless, it feels as though there has been a concerted effort among neighbours to organize and mobilize against us as newcomers to the neighborhood, and we have been made to feel unwelcome since moving in.

Our request

We are requesting approval of the variance requested in our Development Permit application PL20230120.

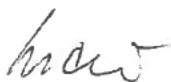
Our recommendations

Clearly the issue of residential air conditioning use in Canmore has generated considerable controversy. As we proceed through the development appeal process ourselves, and we await the outcome of our appeal regarding our own situation, we do have some observations and recommendations for the Town of Canmore to consider for future situations involving air conditioning noise complaints:

1. Decide whether the Land Use Bylaw setback requirements are the appropriate tool to regulate air conditioning noise. We do not believe they are the right tool to address what still remains a legitimate and important issue for residents.
2. Consider adjusting the LUB setback requirements along the North side of 1st Street due to the unconventionally shallow depth and small building envelope of these lots (regardless of whether they were intentionally or inadvertently shortened to accommodate the full width of the lane between 1st Street and 2nd Street).

3. As suggested by the firm that designed our home, in future versions of the LUB, offer rear setback variances in addition to side yard setbacks, as this will allow air conditioning units to be placed further away from neighbouring homes. Side yards are a less than ideal location for air conditioning units for noise attenuation purposes -- yet continue to be the preferred option for installation.
4. Review and address inconsistencies and ambiguous standards in the new Community Services Bylaw 2022-16 with respect to noise – particularly on the inconsistency regarding an objective/empirical threshold versus a situationally-assessed threshold. Air conditioning units are a well-known appliance with predictable decibel ratings and performance, and homeowners (regardless of whether they own a unit or are bothered by a unit) need the same level of predictability and consistency regarding when units may be in contravention of the noise bylaw.
5. Do not make air conditioning a moral or judgment issue. There are many legitimate reasons for wanting or needing an air-conditioned home – particularly for medical and air quality reasons (especially given forest fire activity). Human Rights legislation protects those with medical vulnerabilities from discrimination, and Canmore’s noise and air conditioning bylaws must meet the standards for accommodation.
6. Do not craft a bylaw with standards that are not achievable via currently available products on the market. Expecting an air conditioner to perform below 60 decibels (and for the homeowner to forego a 10-year warranty in favour of a product with a one-year warranty due to high malfunction rates) is akin to imposing emission standards on automobiles despite there being no such vehicles available on the market. Whatever standards the Town chooses to adopt with respect to noise standards must be clear, realistic, balanced, achievable, enforceable, and widely communicated.
7. Ensure Municipal Enforcement has a clear understanding of the threshold with respect to air conditioner noise complaints, as well as the professional tools, equipment and training to assess complaints and issue orders. Otherwise, Bylaw Officers will continue to be hard pressed to make situational assessments based on gut feeling alone rather than on empirical evidence and assessment.
8. Involve Canmore’s community of house designers, builders, and HVAC suppliers in the discussion about air conditioning standards. These professionals are routinely queried by clients about the current rules, yet seem to be lacking consistent information and guidance to respond to inquiries -- despite being essential stakeholders and messengers regarding the Town’s position and standards on air conditioners.
9. If desired, the Town could consider collaborating with Bighorn Sheet Metal and the Lechelt residence to place, on a trial basis, an untested noise attenuation blanket on our unit, and use a reliable noise monitoring device to assess the efficacy of the blankets. We are willing to participate in a study of this nature and are keen to develop data-driven information that will be useful to the entire community and will inform future noise bylaw standards. We remain committed to being part of the solution.

Sincerely,



Ron Lechelt, PEng



Leah Lechelt, MSc, BCom, CMC

Appendices

- A. Chronology of Discussions and Resolution Actions with Neighbours**
- B. Current A/C Data Sheet**
- C. Russell and Russell Design Studios Letter**
- D. Lechelt distance-decibel calculations**
- E. Bighorn Sheet Metal Email**
- F. Calgary Air Heating and Cooling Email**
- G. Notice of Decision PL20230120 and Comments to Consider Email**
- H. Municipal Enforcement Noise Assessment Email**
- I. Noise Monitoring Equipment (Type 2) & Accuracy of iPhone Apps**

Appendix A: Chronology of discussions and resolution actions with neighbours

On approximately August 17, 2022 – the day after the new CSB 2022-16 bylaw was passed – Ron was approached by a neighbour ('Neighbour #1) at 7 am regarding air conditioner noise. The neighbor had a solution in mind (that the Lechelts tunnel underneath the exposed aggregate driveway and relocate the air conditioner to the other side of our property). We did not perceive this to be a workable solution but we accepted the noise concern for what it was.

The same day, we contacted our builder for guidance. He reiterated that the unit is the quietest model available on the market and was surprised there were noise concerns. He committed to reporting back to us with options regarding relocating the unit, but indicated it couldn't be moved to the opposite side of the property because it must be located next to the mechanical room, which is on the same side as the unit is currently installed. He also indicated that moving the unit to the only feasible locations (upward, to the 2nd or 3rd floor) would make the noise worse for the neighbors. We also inquired about noise attenuating covers or blankets, but he indicated the need for air flow around the unit typically means the unit can't be covered.

The next day (~ approximately Aug. 18), we received a complaint from a second neighbour (whom we'd never met – 'Neighbour #2) who introduced herself and indicated her house vibrates due to our air conditioner. She was professional and courteous, but did ask us to find a solution.

On August 22 we met with Neighbor #1 (a couple) to discuss their concerns. They reiterated their concerns and acknowledged they had communicated with other neighbours about the 'illegal air conditioning unit.' They requested that we relocate the unit or stop running it at night. We indicated that we required cooling, including at night, but had begun discussions with our builder regarding resolution strategies. However, the neighbours remained committed to one of their proposed solutions (tunneling under the driveway) or having the unit turned off at night. They also hinted that civil action could soon be initiated.

On August 26 we had an in-person meeting with our builder to discuss options. He did not believe our air conditioner would cause house walls to vibrate two properties away. He also reiterated the same limited noise attenuation options as previously discussed (relocate to the 2nd or 3rd floor) and committed to contacting the HVAC supplier to see if additional options were available. Unfortunately, he was unable to reach the HVAC representative because the installer was on vacation for three weeks.

For the next week we received text messages and in-person inquiries from the two neighbours looking for a status update. Both neighbours were becoming increasingly aggressive and hostile, with each offering their own solutions (smaller unit, different unit, tunnel under the driveway). Both called into question the knowledge and expertise of our builder and HVAC supplier. At this point we had no further information to share as the HVAC supplier was on vacation and could not be reached.

On Sept. 3 Ron and Leah left for a two-week vacation and the air conditioning unit was turned off for the season.

On Sept. 17, our builder came for a site visit and discussion. He expressed frustration with the number of trades off sick with COVID and indicated he could not get responses from trades or HVAC vendors regarding our information inquiries. He indicated he wasn't aware of any local (Canmore) contractors that could conduct a noise study, and suggested we look for a Calgary firm as the builder himself was about to leave for a two-week vacation and could not call around on our behalf.

Sept. 20 to Oct. 3: Ron searched for consulting firms in Calgary that conduct these types of assessments and would be willing to travel to Canmore. He landed on Patching Consulting – a firm in Calgary that conducts noise & vibration studies. The engineer at Patching believed the neighbour's complaint about her house vibrating was unlikely. Ron then discussed project scope and availability, and Ron followed up later in the day with a phone message to discuss pricing and timing. Patching didn't respond back until Oct. 11 – apologizing and saying the entire office team had been off sick with COVID. They were far behind and may not be able to take on our project until later in the fall.

Oct. 16 to 25: We received repeated inquiries from both neighbours regarding the status of their requests. We had no additional information to offer, and the unit had been off for six weeks at this point. We indicated to the neighbours that the unit's seasonal shutdown during fall and winter would buy us some time to continue exploring options; both neighbours accused us of stalling.

Oct. 31: We still did not have a noise monitoring date confirmed with Patching Consulting. We had a follow-up meeting with our builder to discuss other consulting firms he may know of that could complete a noise and vibration study. He had no additional recommendations, and also indicated the unit should not be turned on anyway due to the cold weather, and suggested the study be postponed until the Spring of 2023.

Nov. 24: We were informed of formal complaints by neighbours to Planning and Development (LUB) and Bylaw (noise). We agreed to resume discussions in the Spring of 2023 when the unit could be turned on again for a noise assessment. We were led to believe that Municipal Enforcement would manage the noise assessment with their own noise monitoring equipment.

May 10, 2023: We were advised to have Municipal Enforcement conduct noise monitoring assessment.

May 16, 2023: We were advised that Municipal Enforcement lacks proper equipment to conduct a noise monitoring assessment.



NH4A4

Performance 14 Compact Central Air Conditioner

Keep the peace with quiet performance as low as 66 decibels with this compact central air conditioner that's great for multi-family housing. Its stackable design has an efficient "pass through" airflow design. Built to last, it features a weather-resistant cabinet and a tight wire protective guard.












Features & Benefits

- Quiet performance (as low as 66 decibels)*
- Single-stage compressor operation
- Durably built to withstand bad weather and debris
- Designed for corrosion resistance and lasting performance
- 10-Year Parts Limited Warranty*

Specifications

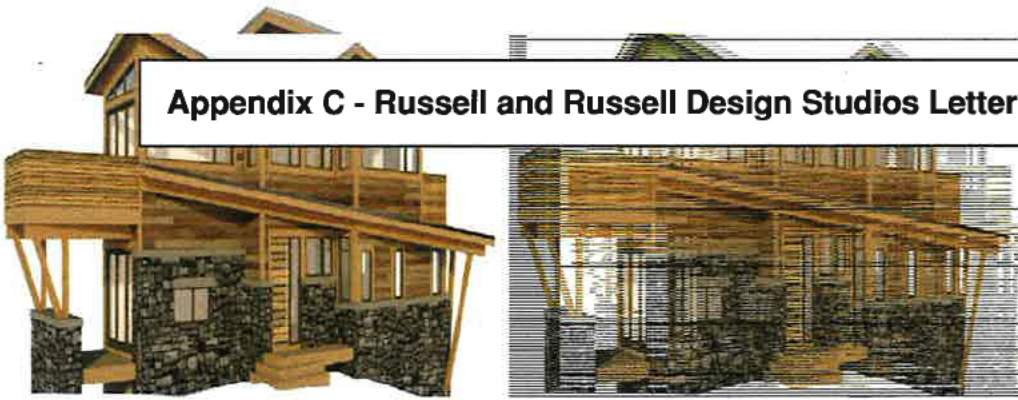
Product Details

 Efficiency Rating		Up to 14 SEER cooling / Up to 12.2 EER cooling
 Sound level		As low as 66 decibels
 Parts Warranty		10-Year Parts Limited Warranty±
 Fan Motor		Single-speed fan motor
 Compressor		Single-stage compressor operation
 Cooling capacity		1.5–5 tons
 Refrigerant		Non-ozone depleting R-410A

Documents

SDAB Hearing for PL20230120 September 7, 2023

Appendix C - Russell and Russell Design Studios Letter



russell
and
russell
design studios

#200 817 main street
canmore alberta t1w 2b3
info@russellandrussell.ca
403 678 3003

re

AC Unit Review

630 1st St, Canmore

Friday, 26 May 2023

Provided to: Leah and Ron Lechelt

To Whom it May Concern,

It has come to our attention that the Ron and Leah Lechelt have been asked to relocate their AC unit to meet the LUB and new noise bylaws.

Background - The lots north of 1st Street are 10m shorter than a standard Town lot. These lots were altered to provide a lane which was not included at time of subdivision.

This 25% reduction in length has not been considered or compensated in the LUB therefore, the entire 10m reduction is taken out of the building envelope not the setbacks. A standard 40m deep lot has a building envelope depth of 26.5m where-as the Lechelt's lot has a building envelope depth of 16.92m. This represents a reduction in envelope depth of 40%. The consequences of reducing the envelope depth without adjusting any setbacks has created lots that are equally expensive but significantly smaller than intended to accommodate standard Canmore homes.

Due to the reduced building envelope, homes on these lots typically utilise the full building envelope and maximum site coverage. The Lechelt's have placed their AC unit within the sideyard setbacks and were informed that this was acceptable unless there were noise complaints from neighbours.

While Ron and Leah would like to find a solution that helped reduce the noise there is very little opportunity at grade and they are currently considering the middle level BBQ deck. This is a far worse location for an AC unit and the noise that might be heard from the neighbouring properties, we would like to avoid this.

A roof top location was also considered however it is too far from the mechanical room to function. The current location is the optimum location for noise attenuation. Providing a variance to allow AC units to be placed in a rear setback rather than a side setback would allow the AC units to be placed slightly further away and provide a potential reduction in noise.

Yours truly,

alasdair russell B. Des. (hons), M. Des.

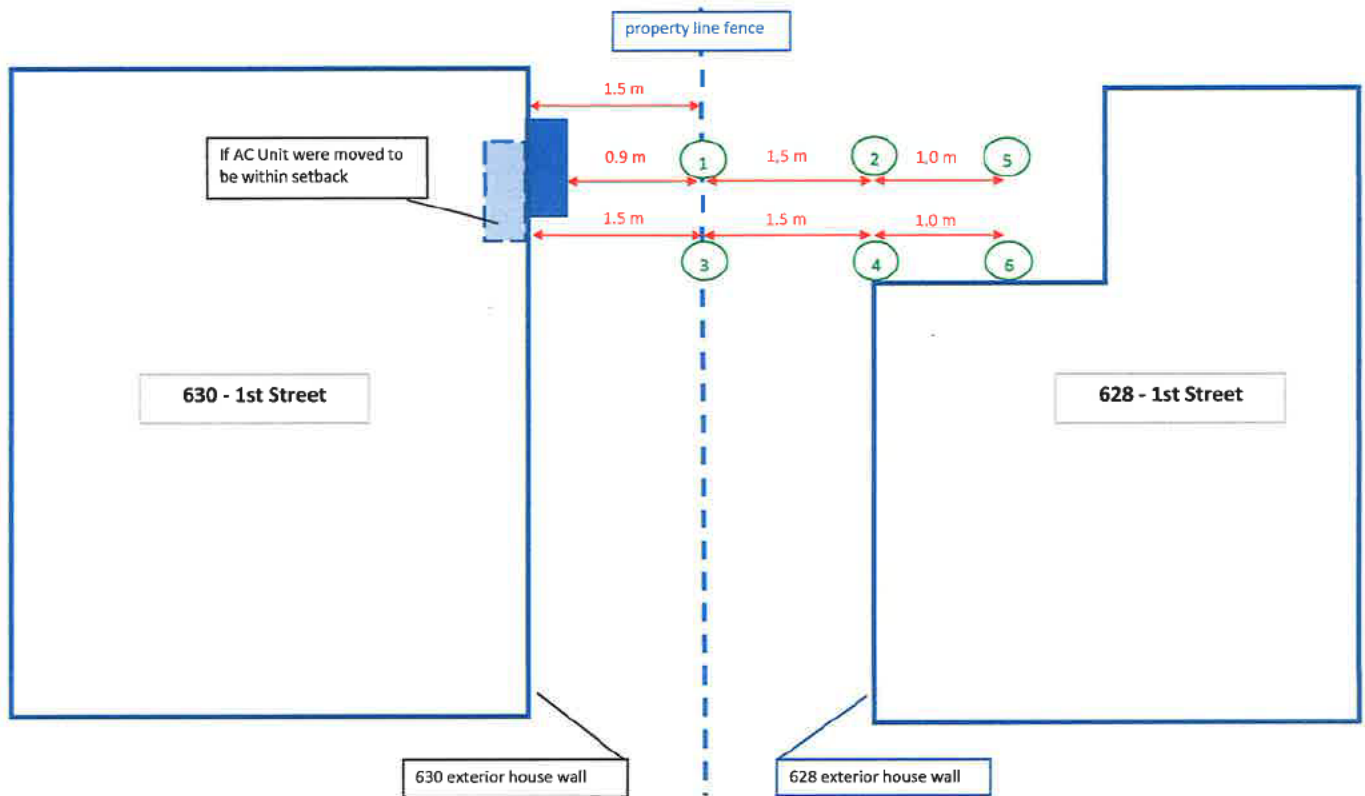
for **russell and russell design studios**

SDAB Hearing for PL20230120 September 7, 2023

Appendix D - Lechelt Distance Decibel Calculations

Purpose: By Using a measured decibel reading, the Inverse Square Law can predict sound levels (dB) at different distances from the sound source

Location No.	Description	Values	Distance from AC (m)
1	Sound measured from AC unit at property line (known)	65 dB	0.9
2	Calculated sound at 628 exterior wall	57 dB	2.4
3	Calculated sound at property line (AC unit moved inline with 630 house wall)	61 dB	1.5
4	Calculated sound at 628 exterior wall (if AC unit were moved inline with wall to be compliant with LUB)	55 dB	3
5	Calculated sound at 1.0 m inside 628 yard (if AC unit were at current location of 0.9 m from property line)	53 dB	3.4
6	Calculated sound at 1.0 m inside 628 yard (if AC unit were moved inline with wall to be compliant with LUB)	52 dB	4



$$\begin{aligned}
 dL &= L_{p2} - L_{p1} \\
 &= 10 \log (R_2 / R_1)^2 \\
 &= 20 \log (R_2 / R_1)
 \end{aligned}$$

Inverse Square Law

(1)

where

dL = difference in sound pressure level (dB)

L_{p1} = sound pressure level at location 1 (dB)

L_{p2} = sound pressure level at location 2 (dB)

R_1 = distance from source to location 1 (ft, m)

R_2 = distance from source to location 2 (ft, m)

A "free field" is defined as a flat surface without obstructions.

Example - Rifle Shot and Sound Pressure at Distance

If the sound pressure from a rifle shot is measured to 134 dB at 1.25 feet - the reduction in sound pressure level at distance 80 feet can be calculated as

$$\begin{aligned}
 dL &= 20 \log ((80 \text{ ft}) / (1.25 \text{ ft})) \\
 &= 36 \text{ dB}
 \end{aligned}$$

The sound pressure level at distance 80 ft can be calculated as

SDAB Hearing for PL 20230120 September 7, 2023

$$= 98 \text{ dB}$$

Appendix E - Bighorn Sheet Metal Email

Troy Weatherhog <troy@allweatherbuilders.ca>

Thu 5/25/2023 7:57 AM

To: ron.a.lechelt@gmail.com <ron.a.lechelt@gmail.com>; 'Leah Lechelt' <leah.lechelt@gmail.com>

From Vince

From: Vince Stock <vince.stock@bighorn-sheetmetal.com>

Sent: Wednesday, May 24, 2023 6:32 AM

To: Troy Weatherhog <troy@allweatherbuilders.ca>

Subject: 630 1st street

To Ron/Leah,

The air conditioner installed at 630 1st street was installed and running as manufacturer specs. We can install an insulation blanket on the compressor that might reduce the decibels by an estimated 2 to 5 decibels however we do not have direct experience with these blankets to see these claimed results. The unit that was installed at this address is one of the quietest units on the market. For the best operating efficiency and reliability, we also recommend the central AC unit be installed within close proximity to where the mechanical room is.

Thanks Vince

BIGHORN SHEETMETAL

CELL 403-609-1277

Appendix F - Calgary Air Heating and Cooling Email

Calgary Air <Intro@calgaryair.ca>

Thu 5/25/2023 10:31 PM

To: ron.a.lechelt@gmail.com <ron.a.lechelt@gmail.com>



Calgary, Alberta
403-720-0003
www.calgaryair.ca

We would like to thank you for allowing us with the opportunity to provide you with an AC proposal. We look forward to providing you with the professional service, quality installations and warranty you deserve. We have provided you with this most accurate sized air conditioning and the new energy standards for 2023 for your property.

- Supply and install 4.0-ton condenser, units are placed on isolation pad or brackets depending on property.
- We priced a cased evaporator coil installed not an uncased coil: Cased coils have higher efficiency, quieter, less air flow loss and proper access for future cleaning.
- The unit comes with a 10-year parts warranty.
- The unit comes with a three-year labour warranty without needing annual service.
- A 10-year labour warranty with annual service. Annual service needs to be every year from installation date at cost of \$149.00 per year billed annually.
- Supply and install copper lines from evaporator to condenser.
- Insulation and vapor barrier repair where pipes enter home.
- Supply and install 3/4" hard pvc drain line, hard pipe prevents blockages over time causing damage to furnace.
- Supply any miscellaneous material.

Option one- high quality equipment

- Trane- lowest efficiency, up to 14.5 SEER, decibel rating 75
- 4.0-ton MD# XR13 Subtotal \$6,395.36
- Trane- mid efficiency, up to 16 SEER, decibel rating 72

.4.0-ton MD# XR14 Subtotal \$6,876.25 **Recommended.**

.Trane- high efficiency, up to 17 SEER, decibel rating 71

.4.0-ton MD# XR16 Subtotal \$7,075.35

Option two- good quality equipment

.Goodman – mid efficiency, up to 14.3 SEER, decibel rating 73

.4.0-ton MD# GSXN Subtotal \$5,784.23

.Goodman- high efficiency. up to 15.2 SEER, decibel rating 73

.4.0-ton MD# GSXH Subtotal \$6,068.36

Slim options, less noise.

Option one - best quality equipment

.Trane - high efficiency, up to 16 SEER, decibel rating 70

.4.0-ton MD# XR16 LOW PROFILE Subtotal \$6,715.00

Option two - good quality equipment

.Temp star - mid efficiency, up to 14 SEER, decibel rating 66

.4.0-ton MD# NH4A4 \$5,848.00

Options to compare to competitors' pricing.

- . All our air conditioning evaporators come in cased coils, higher efficiency, better air flow and future cleaning/service.
- . Wall thimble to prevent rodents and infiltration inside home.
- . Labour warranty for ten years with annual service.
- . Electrical permit included.
- . 24/7 service including holidays with priority service.
- . We have an A+ BBB rating with a zero-complaint record.
- . We have over 150- 5 star google reviews.
- . Our technicians are all background checked and manufacture trained.
- . All our products are the new energy standard 2023.
- . All installations are done by Calgary Air employees, not subcontractors.

Prices do not include gst

Calgary Air Heating and Cooling Ltd

Office [403-720-0003](tel:403-720-0003)

Chris Reid

Owner/operator

Journeyman refrigeration and air conditioning mechanic

Master A class gas fitter

403-720-0003

Info@calgaryair.ca

Calgaryair.ca



CALGARY AIR
Heating & Air Conditioning

Appendix G - Notice of Decision PL20230120 and Comments to Consider Email

Eric Bjorge <eric.bjorge@canmore.ca>

Wed 5/10/2023 4:19 PM

To: ron.a.lechelt@canmore.ca

1 attachments (337 KB)

PL20230120 - 630 1st Street_Notice of Decision_Refusal_Signed.pdf;

Hello Ron and Leah,

Please see the attached Notice of Decision for your Development Permit application for a variance to the side yard setback for an air conditioning unit.

As mentioned in the decision document, you have 21 days from the date of this decision to file a Notice of Appeal to the Subdivision and Development Appeals Board. Instructions on how to do that can be found here: <https://canmore.ca/town-hall/boards-committees/subdivision-development-appeal-board>

After reviewing the application and receiving neighborhood feedback I have the following comments for you to consider:

- Four separate public objections to the proposal were received in response to the Notice of Application, all related to the noise produced by the unit.
- The Land Use Bylaw does not specifically address the noise produced by an A/C unit, only the location and screening. However there is an open question of whether the location of the unit changes the noise experienced by adjacent properties, and therefore the issues of location and noise are linked.
- **I suggest you coordinate with Municipal Enforcement to complete a noise assessment of the unit** and submit the results as part of your appeal materials, to determine whether it's compliant with the Community Standards Bylaw. This would be relevant as the neighborhood objections to the unit focus on noise.
- I would also suggest you obtain feedback from the installer of the unit to provide professional comment on the following:
 - a. Confirmation the unit is installed and operating correctly.
 - b. If there are silencers that could be installed to mitigate the noise produced by the unit
 - c. The feasibility of moving the unit to a location on the property that would be compliant with the Land Use Bylaw.

If you have any questions for me, please contact me prior to submitting your Notice of Appeal. Once you submit the Notice of Appeal, as a matter of process all of your communication will have to be through the Subdivision and Development Appeals Board Clerk.

Sincerely,



Eric Bjorge B.A., RPP, MCIP

Planning Technician

Town of Canmore | 902 7th Avenue | T1W 3K1

P: 403.678.0753 | F: 403.678.1543

E: eric.bjorge@canmore.ca | www.canmore.ca

NOTICE OF DECISION

THIS IS NOT A DEVELOPMENT PERMIT

DEVELOPMENT PERMIT No.: PL20230120

APPLICANT NAME: Ronald and Leah Lechelt

MUNICIPAL ADDRESS: 630 1st Street

LEGAL ADDRESS: Lot 23, Block 77, Plan 9910432

LAND USE DISTRICT: R1 – Residential Detached

USE(S): External Air Conditioning Unit

DATE OF DECISION: May 10, 2023

REFUSED BY: Development Officer

DATE ISSUED: May 10, 2023

It has been decided that the application be **REFUSED** for the reasons noted in the attached **Schedule A**.

This application was deemed complete on: April 24, 2023


Signature

Eric Bjorge
Development Officer

May 10, 2023
Date

A decision of the Development Authority on a development permit application may be appealed by serving a written Notice of Appeal to the Secretary of the Subdivision and Development Appeal Board within twenty-one (21) days of the date that the applicant is notified of the decision in writing.

Should you have any questions or require information regarding any of the above please contact the Development Officer as noted in this document.

SCHEDULE A

REASONS FOR REFUSAL

DEVELOPMENT PERMIT No.: PL20230120

LAND USE DISTRICT: R1 – Detached Residential

MUNICIPAL ADDRESS: 630 1st Street

LEGAL ADDRESS: Lot 23, Block 77, Plan 9910432

PROPOSED USE(S): External Air Conditioning Unit

-
1. Section 2.4.3.1 of the Land Use Bylaw prohibits the projection of air conditioning units into required side yard setbacks.
 2. The required side yard setback in the R1 district is 1.5m. The air conditioning unit has been installed at 0.9m from the property line, projecting 0.6 m into the required side yard setback. A variance of this magnitude (40%) is beyond the authority of the Development Officer to consider, in accordance with section 1.14.1.1 of the Land Use Bylaw.

Appendix H - Municipal Enforcement Noise Assessment Email

Richard Barnes <richard.barnes@canmore.ca>

Fri 5/26/2023 10:43 AM

To: Ron Lechelt [REDACTED]

Cc: Greg Burt <greg.burt@canmore.ca>; Eric Bjorge <eric.bjorge@canmore.ca>

Good morning Ron,

As I am not available for Monday as you proposed, I discussed this meeting with my direct supervisor and after further discussion our Municipal Enforcement team will be unable to assist you with any form of Noise Assessment survey due to the fact that our department does not currently have an objective sound measurement device.

With that said you are more than welcome to contact a third party to have a sound assessment survey done for the purposes of your appeal.

Apologies again for the confusion.

Best regards,

Richard



Richard Barnes | (He/him)

Bylaw Officer #2395

Municipal Enforcement

100 Glacier Drive

Canmore, Alberta T1W 1K8

P: 403-678-4244

E: richard.barnes@canmore.ca

From: Ron Lechelt [REDACTED]

Sent: Friday, May 26, 2023 10:19 AM

To: Richard Barnes <richard.barnes@canmore.ca>

Subject: Re: Request for noise assessment of air conditioning unit

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Richard,

Thanks for reaching out. Ideally do you have any time available on Monday? I'm in Calgary this morning, and won't be back home until around 3:30 which is another option.

Let me know what works, and I'll accommodate where I can.

Regards,

Ron

From: Richard Barnes <richard.barnes@canmore.ca>

Sent: Friday, May 26, 2023 9:49 AM

To: [ron.a.lechelt](mailto:ron.a.lechelt@canmore.ca) [REDACTED]
Subject: RE: Request for noise assessment of air conditioning unit

Good morning,

I would be available for most of today, early evening on May 31st, or anytime on June the 1st or 2nd. Please let me know what works best for you.

Best regards,

Richard



Richard Barnes | (He/him)
Bylaw Officer #2395
Municipal Enforcement
100 Glacier Drive
Canmore, Alberta T1W 1K8
P: 403-678-4244
E: richard.barnes@canmore.ca

From: Ron Lechelt [REDACTED]
Sent: Wednesday, May 24, 2023 10:56 AM
To: Enforcement <enforcement@canmore.ca>
Subject: Request for noise assessment of air conditioning unit

You don't often get email from [REDACTED] [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

As part of an application process for a development permit, TOC requested we coordinate with enforcement for a noise assessment survey of an installed AC unit on our property.

If possible, we'd to have this done this week but would have to coordinate with our work schedules as we may not be home. Please contact me at your earliest convenience.

Thanks,

Ron Lechelt
630 - 1st Street
[REDACTED]

Best Sound Level Meter (That Actually Records Data)

MARCH 13, 2022 · FIELD RECORDING, GEAR

Learn about the different types of sound level meters and which one is the best in this article.

Appendix I - Noise Monitoring Equipment (Type 2) & Accuracy of iPhone Apps



Sound level meters are fantastic tools for measuring how loud environments are.

This article specifically investigates the best sound level meters capable of recording data.

It's important to make this distinction because most sound level meters don't record anything and simply display the live dB measurement.

If you need a sound level meter for casual observations and don't need to produce reports and graphs of your data, save your money and download a free app like [Decibel](#).

Table of Contents:

1. [What Is A Sound Level Meter?](#)
2. [Accuracy: Class vs Type](#)
3. [How Loud Is 1 dB?](#)
4. [When To Calibrate](#)
5. [Common Uses](#)
6. [Weighting Curves](#)
7. [Why Data Logging Important](#)

Best Overall:



REED 8080

The REED 8080 is the best overall sound level meter thanks to its large internal memory and compact size.

Using its fastest sample rate, it can store data for 18 hours.

[Check Price](#)

The BEST Way To Record ELECTRIC GUITAR and BASS

[SEE ALL OPTIONS](#)

What Is A Sound Level Meter?

A sound level meter, also called a sound pressure level meter (SPL), is a device that measures how loud sounds are.

They work by using a calibrated microphone to detect changes in decibel (dB) levels.



The accuracy of a sound level meter is designated by its “Class” or “Type” specification.

For more detailed information, please see this [Wiki Article](#).

Difference Between Class and Type For



Example of a Type 1 sound level meter.

Type 1 is the older term for Class 1 classification but is still widely used by sound level meter manufactures.

Type/Class 1 sound level meters are more accurate than Type/Class 2 meters.

Sound level meters use a set of tolerance standards from the International Electrotechnical Commission (IEC) for determining accuracy across a range of frequencies.

The following tables represent the latest sound level meter standard, [IEC 61672-3](#).

Type 1 & Class 1 Sound Level Meters:

Frequency	Accuracy
31.5 Hz	± 2.0 dB
63 Hz	± 1.5 dB
125 Hz	± 1.5 dB
250 Hz	± 1.4 dB
500 Hz	± 1.4 dB
1 kHz	± 1.1 dB
2 kHz	± 1.6 dB
4 kHz	± 1.6 dB
8 kHz	± 5.2 dB

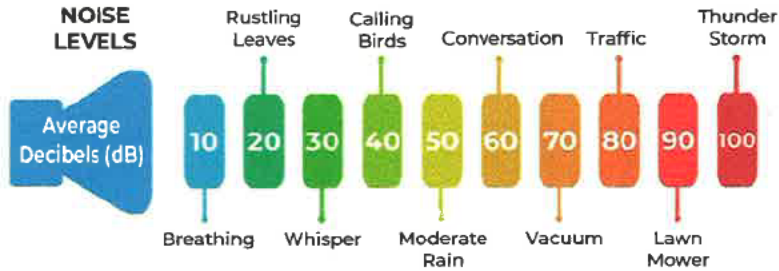
Type 2 & Class 2 Sound Level Meters:

Frequency	Accuracy
31.5 Hz	± 3.0 dB
63 Hz	± 2.5 dB
125 Hz	± 2.0 dB

Frequency	Accuracy
2 kHz	± 2.6 dB
4 kHz	± 3.6 dB
8 kHz	± 5.6 dB

As you can see, “Type 1” and “Class 1” meters are 1-2dB more accurate than “Type 2” and “Class 2” meters.

How Loud Is A Decibel?



Decibels are a unit of measure used to quantify sound intensity.

The decibel scale is logarithmic, meaning that every 10 decibels represents a change in acoustic intensity by a factor of 10.

For example, 10dB is 10 times more intense than 0dB and 20dB is 100 times more intense than 0dB.

Every 10dB increase in intensity roughly doubles the perceived loudness of a sound.

So how different are Class 1 and Class 2 sound level meters?

Not very.

Their difference of ± 1-2dB in accuracy across the frequency spectrum is so small, the human ear has difficulty telling the difference.

For this reason, Class 1 sound level meters are only used for laboratory measurements when extreme accuracy is mandatory.

How To Calibrate A Sound Level Meter



Image showing calibration process.

Sound level meters are calibrated by using a standardized, 94dB sine wave.

The sine wave is played by a calibrator directly into the sound level's microphone and the sound level meter is adjusted until it shows a reading of exactly 94dB.

How often should you calibrate your sound level meter?

To ensure accuracy, calibrating your sound level meter once per year is recommended.

Sound Level Meter Uses

Sound level meters are most commonly used for measuring decibel levels in work environments to determine if the relative loudness is safe for humans.



They're most commonly used in:

- industrial plants
- road and rail traffic
- construction sites

Most noise safety standards recommend using ear protection when exposed to environments with a dB level ≥ 85 dB for 8 hours or longer.

See the below table for hearing loss thresholds for specific dB levels.

Noise Exposure	Hearing Loss After Duration
80 dB	Safe
82 dB	16 Hours
85 dB	8 Hours
88 dB	4 Hours
91 dB	2 Hours
94 dB	1 Hour
97 dB	30 Minutes
100 dB	15 Minutes
103 dB	7.5 Minutes
106 dB	< 4 Minutes
109 dB	< 2 Minutes
112 dB	< 1 Minute
115 dB	30 Seconds
118 dB	15 Seconds
121 dB	7 Seconds
124 dB	< 4 Seconds
127 dB	< 2 Seconds
130 dB	< 1 Second
Above 140 dB	Instant Hearing Loss

Frequency Weightings For Sound Level Measurements

Sound level meters will often offer the choice to apply frequency weighting curves to the readings.



Common weighting curves include:

- **A-Weighting** - the same frequency response as the human ear.
Cuts off most sounds below 500 Hz and above 8 kHz.
- **C-Weighting** - mimics the frequency response of the human ear at higher intensity levels of around 100dB.
- **Z-Weighting** - a flat frequency response with no weighting between 10 Hz - 20 kHz.

A-weighting is the most commonly used weighting curve because it only takes into consideration frequencies that the human ear is sensitive to.

C-weighting is used in extremely loud environments where the human ear is more sensitive to lower frequencies.

Z-weighting is used when the total dB level across all frequencies is needed.

Most sound level meters will have A and C-weighted curves to choose from.

Why Is Data Logging Important?

If you want to do any kind of analysis of your decibel data, generate graphs or have solid proof of your readings, it's important that your sound level meter can record the data for later use.



Most sound level meters will only display the live reading. If you want to have any kind of record of the measurements, you'll have to write them down or photograph the display while recording.

Neither of these methods is accurate and will be subject to skepticism.

All of the sound level meters recommended below are capable of recording data for later analysis via software.

Best Sound Level Meters

The recommended sound level meters below all support data logging and are Type/Class 2 meters.

Best Overall: REED 8080

The [REED 8080](#) is the lightweight version of the 8070SD without SD card support.

Using the internal, 1MB memory, it can store 64,000 data points.



The 8080 is smaller and lighter than the 8070SD (below) and requires less batteries (x4 AAA).

If you're looking for a well-built sound level meter capable of recording up to 18 hours of data, the REED 8080 is the best option out there.

Pro:

- smaller and lighter than the 8070SD
- requires x4 AAA batteries

Con:

- AAA batteries are lower capacity than AA's

SPECIFICATIONS

Accuracy	Type 2
Measuring Range	30 - 130 dB
Internal Memory	Yes (1MB)
Expandable Memory	No
Frequency Weighting	A, C
Selectable Sampling Rate	Yes (between 1s and 60s)
Power Supply	4 x AAA Batteries
Dimensions	10.4 x 2.5 x 1"
Weight	8.8oz (245g)

Best For Long Recordings: REED 8070SD

The [REED 8070SD](#) is a Type 2 sound level meter capable of recording dB data to an SD card.

With a 16GB card installed (the maximum supported size) the 8070SD can **store over 1 billion dB readings!**

When using a sample rate of 1 reading per second, you can record data for 32 years straight!

With virtually no cap on recording times, the 8070SD is perfect for making many, long recordings at multiple locations before returning home for analyzation.

Additionally, the x6 AA batteries give the 8070SD insane battery life. I've run mine on 2000mAh batteries for over 48 hours straight. And that's in recording mode!

Downsides to the 8070SD are its x6 AA batteries and large size.

Pro:

Con:



CHECK PRICE

SPECIFICATIONS

Accuracy	Type 2
Measuring Range	30 - 130 dB
Internal Memory	No
Expandable Memory	16GB SDHC
Frequency Weighting	A, C
Selectable Sampling Rate	Yes (1, 2, 5, 10, 30, 60, 120, 300, 600, 1800, 3600 seconds)
Power Supply	6 x AA Batteries
Dimensions	9.7 x 2.7 x 1.8"
Weight	0.7lbs (320g)

Budget Option: PCE-322A

The [PCE-322A](#) from PCE Instruments is an affordable sound level meter with data logging support.

The internal 0.5MB memory can store 32,700 data points.



There is only one sample rate option: 2 samples per second.

While this will yield high density data, it means the PCE-322A can only store 4.5 hours of dB data.

Downsides to the PCE-322A are its large size and heavy weight.

[CHECK PRICE](#)

Pro:

- cheaper than other options
- only requires a 9v battery
- high data density (2 samples/second)

Con:

- bulky and heavy
- relatively small storage capacity

SPECIFICATIONS

Accuracy	Type 2
Measuring Range	30 - 130 dB
Internal Memory	Yes (0.5MB)
Expandable Memory	No
Frequency Weighting	A, C
Selectable Sampling Rate	Yes (1, 2, 5, 10, 30, 60, 120, 300, 600, 1800, 3600 seconds)

Final Thoughts

After weighing all the options, I decided to purchase a [REED 8070SD](#).

Although it's relatively big and heavy, the ability to record many hours worth of data is necessary for my use.

I use the 8070SD for making dB recordings for my volunteer work for [Quiet Parks International](#).

Have any questions? Feel free to ask in the comments below. Sometimes people aren't notified when I respond, so try checking back occasionally. I usually respond within 48 hours.

Support Acoustic Nature

If you enjoyed this post and would like to help support Acoustic Nature, please consider "buying me a coffee" or becoming a Patreon with the buttons below.

As a thank you for your support, Patreon supporters receive a copy of [Field Recording For Beginners](#), exclusive access to the full Behind The Sounds video series, nature sound library downloads, and more.

If you are unable to support the site financially, please share this post with others, or leave a comment below letting me know you enjoyed this post! Both are free and help the website grow. Thank you 🎵

PATREON



Thanks for reading,
-Jared

FULL TEXT LINKS



Laryngoscope. 2021 Jan;131(1):E59-E62. doi: 10.1002/lary.28590. Epub 2020 Feb 28.

The Accuracy of iPhone Applications to Monitor Environmental Noise Levels

Eleanor Crossley ¹, Tim Biggs ¹, Phillip Brown ¹, Tahwinder Singh ¹

Affiliations

PMID: 32108336 DOI: [10.1002/lary.28590](https://doi.org/10.1002/lary.28590)

Abstract

Objective: The Control of Noise at Work Regulations came into force in Great Britain in 2005, requiring all work environments to be monitored for potentially harmful noise exposure levels. This study evaluated the effectiveness of a number of iPhone phone applications (apps) (Apple, Cupertino, CA) to accurately measure noise exposure, which may prove effective when a specialist-calibrated sound level meter is not readily available.

Methods: Suitable apps were identified using the search terms noise and decibel through the App Store (Apple). Apps that were free to download and had at least one rating were included. Apps were evaluated using a calibrated pure tone sound field and a soundproof testing booth. A 3-frequency audiogram (1000 Hz, 2000 Hz, and 4000 Hz) was used at 25 dB, 40 dB, 55 dB, 70 dB, and 85 dB. Linear regression was carried out to assess accuracy.

Results: Nine apps were tested in total, with four out of nine providing a goodness-of-fit coefficient (R^2 value) over 0.9. The most effective app was found to be the NIOSH (National Institute for Occupational Safety and Health) Sound Level Meter (EA LAB, Slovenia) with an R^2 of 0.97. The least effective app was the Decibel Meter With Recorder (Jianhua Ming, China) with an R^2 of 0.62.

Conclusion: This study has shown significant variation in the ability of iPhone apps (Apple) to accurately predict environmental dB levels. However, if the correct app is used, an iPhone represents a relatively reliable means of measuring noise exposure levels when a specialist calibrated sound level meter is not readily available.

Level of evidence: NA Laryngoscope, 131:E59-E62, 2021.

Keywords: Noise; audiology; hearing loss; noise-induced; occupational.

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Related information

[MedGen](#)

LinkOut - more resources

Full Text Sources

[Wiley](#)

SDAB Hearing for PL20230120 September 7, 2023

[Medical](#)

Research Materials

NCI CPTC Antibody Characterization Program

Miscellaneous

NCI CPTAC Assay Portal

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

STAFF REPORT



DATE OF HEARING:	SEPTEMBER 7, 2023
PROPOSED DEVELOPMENT:	AIR CONDITIONING UNIT (VARIANCE TO SIDE YARD SETBACK)
APPLICATION NUMBER:	PL2023120
LEGAL DESCRIPTION:	LOT 23, BLOCK 77, PLAN 9910432
CIVIC ADDRESS:	630 1 ST STREET
CURRENT USE(S):	DETACHED DWELLING
APPLICANT:	RONALD AND LEAH LEHELDT

EXECUTIVE SUMMARY

The proposed development is for an Air Conditioning Unit (A/C Unit) mounted to the side of a new detached dwelling (constructed in 2022). The A/C Unit was installed after the house was completed, and through neighbourhood complaints the Town became aware that the location of the unit was not compliant with the Land Use Bylaw (LUB), as well as concerns with noise projected from the unit.

A/C Units are normally exempt from obtaining a Development Permit (DP) but are prohibited from being located within the required building setbacks. Accordingly, the owner applied for a DP to allow the unit to remain in its current location. The application requests a variance to section 2.4.3.1 of the LUB, which prohibits an A/C Unit from being within a side yard setback. The application proposes a 40% variance to the projection of the A/C unit in the side yard. The variance requested is beyond the maximum 10% allowed by a Development Officer in accordance with the LUB, and therefore the Development Permit was refused.

Correspondence was received indicating the A/C unit is causing disruption to neighbouring properties by producing noise and vibration. There is no evidence that the proposed location variance is substantially increasing the noise and vibration produced by the A/C unit. There is limited opportunity to relocate the A/C unit given the location of the building and mechanical room, and there is no apparent issue with the A/C unit apart from noise (which is not regulated by the Land Use Bylaw), the application is being recommended for approval.

BACKGROUND

Land Use Bylaw 2018-22

Works of maintenance, renovation, or repair which are consistent with an existing Development Permit, are exempt from requiring a Development Permit under section 1.9 (Development Permits Not Required), provided the work or development complies with all regulations within the LUB. In this case, since a variance is requested, a Development Permit is required.

The property is within an R1 Residential Detached District, which has a required side yard setback of 1.5m.

Section 2.4.3 of the LUB (Building Projections) states that... *“Every part of any front, rear or side yard setback, or waterbody setback, required by this Bylaw shall be open and unobstructed by any structure from the ground to the sky except for the items listed in Table 2.4-1”*. Within table 2.4-1, Air Conditioning Equipment is specifically listed as having no projection allowances into a front, side, or rear yard.

Section 1.14.1 - Discretion of Development Authority, states that the Development Officer can apply a maximum of a 10% variance to a minimum side yard setback. The variance being proposed in this case amounts to 40%, with a proposed setback from property line of 0.9, instead of the required 1.5m (difference of 0.6m).

Section 2.15 - Mechanical Systems and Outdoor Storage, state that air conditioning shall be screened, to the satisfaction of the Development Officer, using a combination of fences, berms, or landscaping. The section further states the purpose of screening generally to be *“to limit visual impacts as well as noises and odours which may negatively impact adjacent uses.”* Fencing and landscaping for visual screening is already in place (See Attachment 4).

Community Standards Bylaw 2022-16

In 2022, the Community Standards Bylaw replaced the Noise Control Bylaw to address noise issues in the community. The bylaw is administered by Municipal Enforcement who has received complaints regarding the noise and vibration caused by the subject A/C Unit. Issues pertaining to noise are handled through a separate process on a complaint basis through Municipal Enforcement.

In July 2023, Council approved amendments to the Community Standards Bylaw which exempts A/C units from noise requirements, provided the unit is in good working condition.

Municipal Development Plan (MDP)

General policies for Neighbourhood Residential are found with Section 6 of the MDP, but there are no direction/policies regarding the installation of equipment such as A/C Units.

Municipal Government Act (MGA)

Section 642 of the Municipal Government Act describes how the development authority may refuse a permit for a permitted use which does not conform with the Land Use Bylaw. Section 687(3, c and d) state that the Subdivision and Development Appeals Board (SDAB) has the right to vary the decision, or substitute their own, and to approve a development permit that doesn't comply with the LUB, provided that certain conditions are met (section 687, ss. 3,d).

EXISTING SITE

This property is within an R1 Detached Residential District. The district allows for Detached Dwellings and Accessory Uses such as Accessory Dwelling Units. The property was recently redeveloped with a new Detached Dwelling and was approved for occupancy in 2022. The surrounding uses are also Detached Dwellings (see Attachment 1). The air conditioning unit is in the east side yard towards the rear of the dwelling (see Attachment 4).

BYLAW CONFORMANCE/VARIANCE DISCUSSION

I. Side Yard Setback

Section 2.4-1 of the LUB prohibits A/C Units within the required front, side, and rear yard. Due to the location of the dwelling, there are two locations on site where the unit would be in compliance with this requirement, shown on the figure below. The current location of the unit is 0.9m from the side property line, instead of the required 1.5m (variance of 0.6m or 40%).

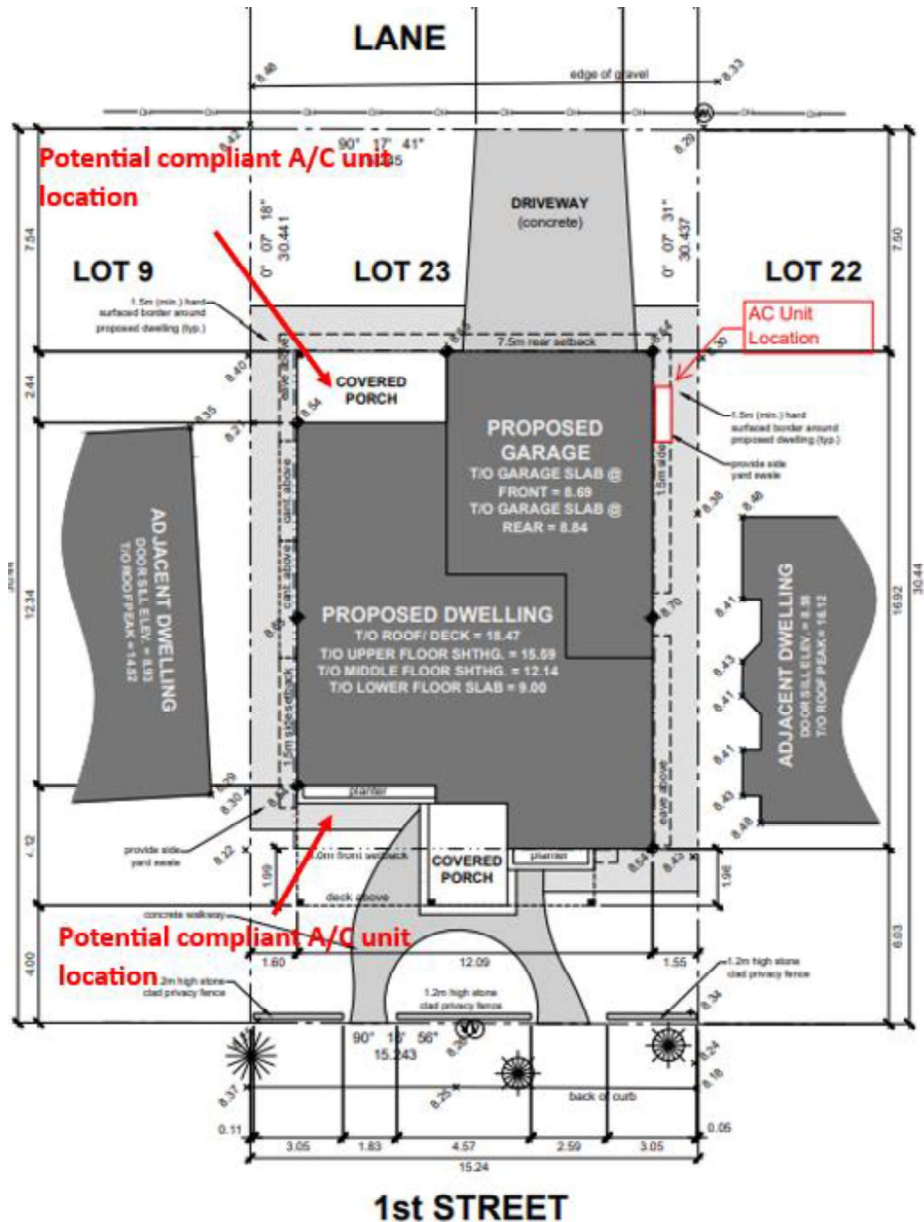


Figure 1 – Site plan showing existing and potential locations for an A/C unit

PLANNING DEPARTMENT POSITION

The Planning Department recognizes that the regulations regarding the location of A/C units was not well known amongst the building community as recently as 2022. Additionally, the location of proposed A/C units was not always shown or required to be shown on permit drawings for new construction. Significant efforts have been made since that time to ensure the location of air conditioning units is considered in the design of new buildings.

Although the application was refused due to the variance exceeding the Development Authority powers, the current location of the A/C Unit does not impede any of the following for which setbacks are put in place to help manage issues related:

1. **Emergency Access:** 0.9m is an adequate space to provide for side yard access. The other side yard remains completely unobstructed allowing for full side yard access.
2. **Privacy:** An A/C Unit presents no issues to privacy. However, the unit is screened by the existing side yard fence and landscaping, which screens the visual appearance of the unit.
3. **Fire Separation:** An A/C Unit presents unlikely impacts (i.e. unit combustion) to fire separation between buildings.

While it may be possible to relocate the unit to a compliant location, the current location does not present impacts from a planning perspective with regards to the factors listed above.

2. Noise and Vibration

The Planning Department received three separate objections to the Development Permit application as a result of the notification process, all related to the noise and vibration produced by the unit.

While noise is mentioned in the screening section of the LUB, the primary tool the Town has at its disposal to address issues of noise is the Community Standards Bylaw, which is administered by Municipal Enforcement (NOTE: as of July 2023 the Community Standards Bylaw exempts A/C units from noise regulations). The LUB only regulates the location and screening of the A/C unit, which has an uncertain and marginal impact on the noise produced. For example, a unit located at 0.9m from the property line is not expected to produce substantially more noise than a unit located at 1.5m from the property line. The screening requirement in this case, primarily addresses the visual impact of air conditioning equipment between properties.

It's important to note, there are currently no Town bylaws which regulate vibration. Additionally, all matters pertaining to noise are handled through a separate process with the Town's Municipal Enforcement department, which is reviewed against the requirements of the Community Standards Bylaw.

PLANNING DEPARTMENT POSITION

The Planning Departments opinion is that that the location of the unit is not the primary reason for the noise issues being caused. There is the possibility that relocating the unit may have the potential to reduce the impact to the properties which have raised concerns, but it may also just move the problem to another area thus impacting different residents. The visual screening in place is sufficient to meet the intent of the screening requirements in the LUB.

Given noise and vibration are not regulated through the LUB, the DP has solely been reviewed against the relevant requirements for location and screening of the A/C unit and is deemed to be acceptable.

OPTIONS FOR CONSIDERATION

Section 687(3)(c) and (d) of the MGA provide that, in making a decision on a development appeal, the board may:

- confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - the proposed development would not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land, and
 - the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

Planning proposes that the SDAB consider the following options:

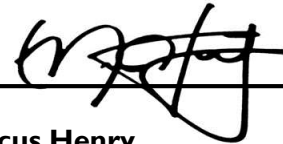
1. Approve the application subject to the conditions in Schedule A.
2. Approve the application subject to the conditions in Schedule A and any conditions.
3. Refuse the application, specifying reason(s) for refusal.
4. Postpone the application, pending submission of any additional details requested by SDAB.

RECOMMENDATION

Planning recommends that the Subdivision & Development Appeal Board **APPROVE** PL20230120. Should the SDAB choose to approve the application, recommended conditions are included in Attachment 6.

ATTACHMENTS

1. Site Context
2. Zoning
3. Bylaw Conformance Review
4. Submitted Plans
5. Notice of Refusal
6. Schedule A – Proposed Conditions of Approval



Marcus Henry
Supervisor of Planning & Development



Eric Bjorge
Planning Technician

ATTACHMENT I – SITE CONTEXT



Overhead photo – 630 1st Street highlighted in blue



Looking west on 1st Street



Looking east on 1st Street



Looking east from lane



Looking west from lane



**AC Unit view from the front street
(measured approx 64 ft from the
edge of street)**

Photo from applicant's Development Permit submission



Photo from rear lane

ATTACHMENT 2 – ZONING MAP



ATTACHMENT 3 - BYLAW CONFORMANCE REVIEW

REQUIREMENT	BYLAW 2018-22	PROPOSED	VARIANCE REQUIRED
SIDE YARD SETBACK	1.5M MINIMUM SIDE YARD, NO PROJECTION OF A/C UNITS PERMITTED	0.9M SETBACK FROM SIDE PROPERTY LINE	YES
SCREENING	SCREENING IS REQUIRED FOR AIR CONDITIONING EQUIPMENT	EXISTING WOOD FENCE ALONG THE PROPERTY LINE AND SOFT LANDSCAPING	No



DEVELOPMENT PERMIT Application Form

To help expedite processing your application, the submission of this form using the fillable fields is greatly appreciated. The submission of scanned or photographed application forms with handwritten information may slow the processing of your application. **All applications shall be submitted electronically via email to planning@canmore.ca.**

PROPERTY INFORMATION			
Municipal Address 630 - 1st Street, Canmore, AB T1W2L2			
Legal Address Lot/Unit: 23 Block: 77 Plan: 9910432		Existing Use of Land/Building R1	
DEVELOPMENT INFORMATION			
Please indicate which checklist you have referenced to form this submission: DP Application Requirements - Small Developments			
Proposed Development/Use(s) Request for side yard variance. Air conditioning unit is mounted to side of house and is 0.6 m deep x 1.13 m long as shown on the attached site plan. 6 foot tall fence along property line and planted trees acts as a screen.			
Total Proposed Gross Floor Area (m ²)	Number of Residential Units	Number of Commercial Units	Property Size (Hectares). New construction <u>only</u> .

PUBLIC TREE DISCLOSURE	
Is there existing Town Trees (Public Tree) within 6m of the construction area, this would include the "Road Right-of-Way" between the private property line and roadway?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
If yes, a Tree Protection Plan Agreement is required to be submitted as part of this application. For more information on the requirements of submitting your Tree Protection Plan Agreement or obtaining a Tree Assessment for the removal of a Town Tree, please contact the Town of Canmore Parks Department at 403.678.1599 or Parks@canmore.ca .	
Additional information regarding the Town of Canmore Tree Protection Bylaw can be found on the Town Website .	





APPLICANT INFORMATION	
Name Ronald & Leah Lechelt	Phone 780-499-7324
E-mail ron.a.lechelt@gmail.com	
Mailing Address 630 - 1st Street, Canmore, AB T1W2L2	

OWNER INFORMATION (if different than applicant)	
Name	Phone
E-mail	
Mailing Address	

DECLARATION

I/We declare that I am/We are the owner of the land described above or authorized to act on behalf of the registered owner(s). I/We have reviewed all of the information supplied to the Town with respect to an application and it is true and accurate to the best of my/our knowledge. I/We understand that the Town of Canmore will rely on this information in its evaluation of the application. Any decision made by the Town of Canmore based on inaccurate information may be cancelled at any time. I/We give authorization for electronic communication, using the email provided on this application form.

By signing below, I/We confirm to have carefully read this declaration and agree to the terms within.

Signature of Applicant  	Date April 11, 2023
Signature of Owner  	Date April 11, 2023

FOIP Notification: This personal information is being collected under the authority of the Municipal Government Act (MGA) and in the Freedom of Information and Protection of Privacy Act (FOIP) and is managed in accordance with the provisions of FOIP. If you have any questions about the collection of your personal information, contact the Municipal Records Officer at municipal.clerk@canmore.ca. **Please note, the Municipal Clerk's Office should *only* be contacted regarding FOIP inquiries.**

PAYMENT

Until the applicable permit fees have been paid in full to the Town of Canmore, the Town will not commence the review of your application. Town staff will contact you upon receipt of the application to arrange for the applicable fee(s) to be paid.

Ron and Leah Lechelt

630 1 Street Canmore, AB T1W 2L2

Cell: 780.499.7324 Email: ron.a.lechelt@gmail.com

April 11, 2023

Mr. Eric Bjorge
Planning Technician
Town of Canmore
902 7th Avenue
Canmore, AB T1W 3K1

Delivered by email to: eric.bjorge@canmore.ca

Dear Mr. Bjorge

As the owners and residents of the residential property located at 630 1 Street, Canmore, AB, below is response to your email dated November 28, 2022, in which you advised us that the air conditioning unit located on the property is in contravention of section 2.4.3.1 of the Land Use Bylaw, which prohibits air conditioning units within any minimum building setback.

We would like to hereby remit a formal request for a Development Permit for a variance to the Land Use Bylaw. Our reasons are as follows:

- This is the only feasible location for the air conditioning unit in that it is immediately adjacent to the mechanical room, which is on the east side of the structure in front of the garage (see attached rendering).
- The unit is a slim design at 37 cm deep. It is specially designed for narrow lot or multi-family applications.
- We deliberately opted not to mount the unit on a concrete pad, but rather to have the unit affixed directly to the exterior side wall of the house with mounting brackets. This was to minimize the unit's projection into the setback.
- The unit was intentionally installed as close as feasible to the rear of our property to minimize proximity to the adjacent/ neighboring home. The unit is currently situated adjacent to the backyard -- rather than the dwelling -- of the property next door.

- The unit is screened by a 6-foot fence between our dwelling and the neighboring property.
- Visibility from the front street is mostly obscured due to the distance of the air conditioning unit from the sidewalk on 1st Street (estimated to be 25 metres of distance). The positioning of a large, mature Larch tree between the front street and the air conditioning unit further obscures visibility of the unit.
- Visibility from the back lane is addressed via back yard landscaping consisting of three newly planted poplar trees immediately north of the air conditioning unit – i.e., between the unit and the back lane. These rapid-growth trees will offer near-complete obscuring of the unit once they achieve some growth.
- For comparison, a neighboring house at 614 -1 Street has a much larger air conditioning unit in the side yard that is fully visible from both the adjacent property and the rear lane. There is no fence between the dwelling and the adjacent property, nor are there any other screening mechanisms.

It is worth noting that some jurisdictions (e.g., Edmonton) permit projections into the side yard so long as there is an unobstructed path of travel of 0.9 metres, which permits adequate passage by utility and emergency personnel. Our side yard clearance meets this minimum travel path width.

Thank you for considering this request for a variance, and please don't hesitate to reach out if you have any questions.

Sincerely,



Ron Lechelt



Leah Lechelt



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0027 840 719 9910432;77;23 201 189 064

LEGAL DESCRIPTION
PLAN 9910432
BLOCK 77
LOT 23
EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: FEE SIMPLE
ATS REFERENCE: 5;10;24;32;SE

MUNICIPALITY: TOWN OF CANMORE

REFERENCE NUMBER: 191 002 932

REGISTERED OWNER(S)				
REGISTRATION	DATE (DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
201 189 064	19/10/2020	TRANSFER OF LAND	\$850,000	\$850,000

OWNERS

RONALD A LEHELDT

AND
LEAH A LEHELDT
BOTH OF:
630-1ST STREET
CANMORE
ALBERTA T1W 2L2
AS JOINT TENANTS

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION	DATE (D/M/Y)	PARTICULARS
NUMBER		
221 060 326	22/03/2022	MORTGAGE MORTGAGEE - ATB FINANCIAL. 1240 RAILWAY AVE, STE 104 CANMORE

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

ALBERTA T1W1P4
ORIGINAL PRINCIPAL AMOUNT: \$2,625,825

TOTAL INSTRUMENTS: 001

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 1 DAY OF APRIL,
2023 AT 05:04 P.M.

ORDER NUMBER: 46874261

CUSTOMER FILE NUMBER:



END OF CERTIFICATE

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED
FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER,
SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

THE ABOVE PROVISIONS DO NOT PROHIBIT THE ORIGINAL PURCHASER FROM
INCLUDING THIS UNMODIFIED PRODUCT IN ANY REPORT, OPINION,
APPRAISAL OR OTHER ADVICE PREPARED BY THE ORIGINAL PURCHASER AS
PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING
OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).



AC Unit view from the driveway



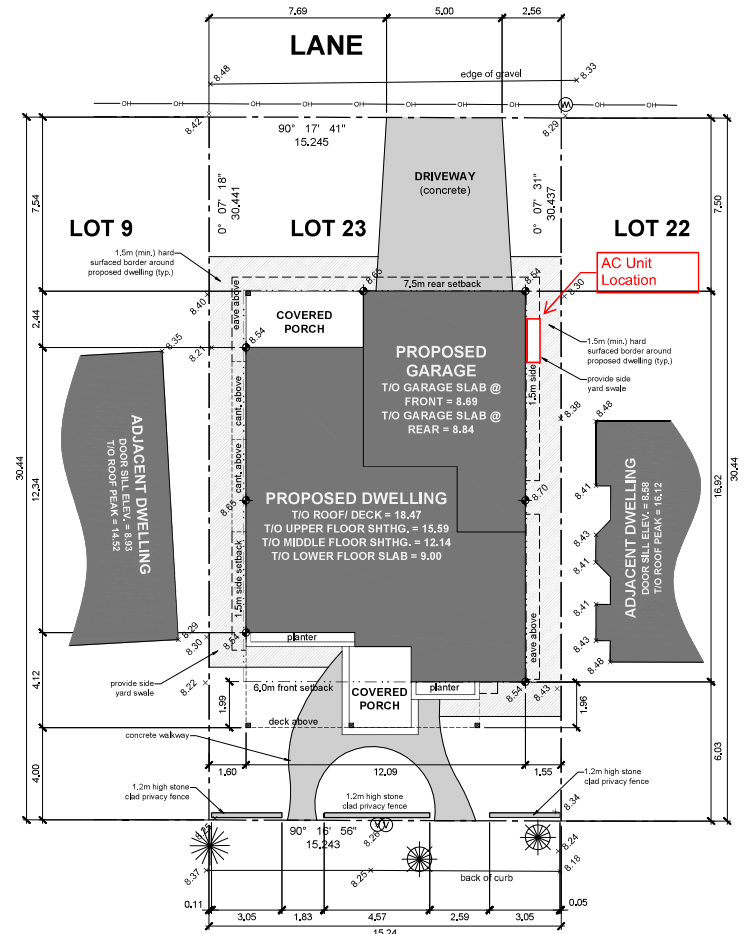
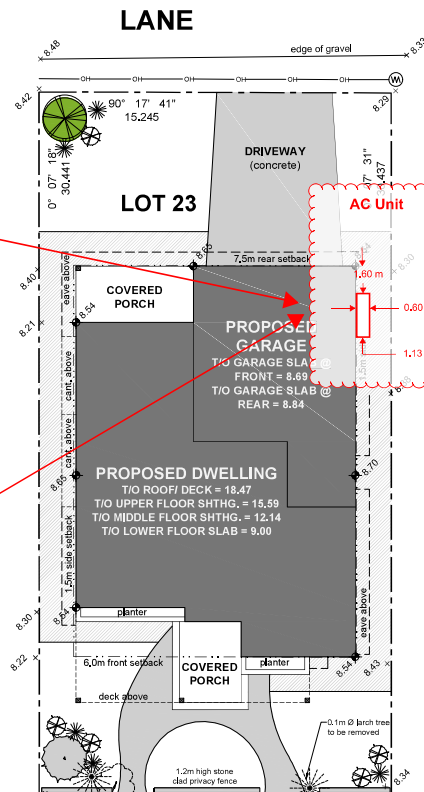
AC Unit from the front showing side yard fence (screen) along property line



AC Unit view from the rear lane (measured approx 32 ft from the lane)



AC Unit view from the front street (measured approx 64 ft from the edge of street)



1st STREET



TOTAL GFA (GROSS FLOOR AREA)
3498 ft.² (324.9 m²)

MUNICIPAL ADDRESS
630- 1st STREET
CANMORE, AB

SITE AREA
464.00 m²

LEGAL DESCRIPTION
LOTS: 23
BLOCK: 77
PLAN: 991 0432

SITE COVERAGE
ALLOWED: 185.80 m²
PROPOSED: 182.87 m²

LAND USE DESIGNATION
R-1

SITE COVERAGE %
ALLOWED: 40.00 %
PROPOSED: 39.41 %

PROJECT:
1065 Lechelt residence

ADDRESS:
630-1st street, canmore, ab

LOT:
BLOCK:
PLAN:
991 0432

CLIENT:
Ron & Leah Lechelt

ISSUED:
A: issued for D.P. 2020-01-21

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403 678 3003
www.russellandrussell.ca

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NH4A4

Performance 14 Compact Central Air Conditioner

Keep the peace with quiet performance as low as 66 decibels with this compact central air conditioner that's great for multi-family housing. Its stackable design has an efficient "pass through" airflow design. Built to last, it features a weather-resistant cabinet and a tight wire protective guard.




Features & Benefits

- Quiet performance (as low as 66 decibels)*
- Single-stage compressor operation
- Durably built to withstand bad weather and debris
- Designed for corrosion resistance and lasting performance
- 10-Year Parts Limited Warranty*

Specifications

Product Details

 Efficiency Rating	 Up to 14 SEER cooling / Up to 12.2 EER cooling
 Sound level	 As low as 66 decibels
 Parts Warranty	10-Year Parts Limited Warranty±
 Fan Motor	Single-speed fan motor
 Compressor	Single-stage compressor operation
 Cooling capacity	1.5–5 tons
 Refrigerant	Non-ozone depleting R-410A

Documents

SDAB Hearing for PL20230120 September 7, 2023

Page 67 of 133

restrictions.

California residents please see [Proposition 65](#)

You might also be interested in



NH4H4
Performance 14 Compact Heat Pump



G96VTN
QuietComfort® 96 Gas Furnace

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NOTICE OF DECISION

THIS IS NOT A DEVELOPMENT PERMIT

DEVELOPMENT PERMIT No.: PL20230120

APPLICANT NAME: Ronald and Leah Lechelt

MUNICIPAL ADDRESS: 630 1st Street

LEGAL ADDRESS: Lot 23, Block 77, Plan 9910432

LAND USE DISTRICT: R1 – Residential Detached

USE(S): External Air Conditioning Unit

DATE OF DECISION: May 10, 2023

REFUSED BY: Development Officer

DATE ISSUED: May 10, 2023

It has been decided that the application be **REFUSED** for the reasons noted in the attached **Schedule A**.

This application was deemed complete on: April 24, 2023


Signature

Eric Bjorge
Development Officer

May 10, 2023
Date

A decision of the Development Authority on a development permit application may be appealed by serving a written Notice of Appeal to the Secretary of the Subdivision and Development Appeal Board within twenty-one (21) days of the date that the applicant is notified of the decision in writing.

Should you have any questions or require information regarding any of the above please contact the Development Officer as noted in this document.

SCHEDULE A

REASONS FOR REFUSAL

DEVELOPMENT PERMIT No.: PL20230120

LAND USE DISTRICT: R1 – Detached Residential

MUNICIPAL ADDRESS: 630 1st Street

LEGAL ADDRESS: Lot 23, Block 77, Plan 9910432

PROPOSED USE(S): External Air Conditioning Unit

-
1. Section 2.4.3.1 of the Land Use Bylaw prohibits the projection of air conditioning units into required side yard setbacks.
 2. The required side yard setback in the R1 district is 1.5m. The air conditioning unit has been installed at 0.9m from the property line, projecting 0.6 m into the required side yard setback. A variance of this magnitude (40%) is beyond the authority of the Development Officer to consider, in accordance with section 1.14.1.1 of the Land Use Bylaw.



SCHEDULE A

CONDITIONS OF APPROVAL

DEVELOPMENT PERMIT No.: PL20230120

LAND USE DISTRICT: R1 – Residential Detached District

APPROVED USE(S): External Air Conditioning Unit

APPROVED VARIANCE(S): Minimum side yard setback

MUNICIPAL ADDRESS: 630 1st Street

LEGAL ADDRESS: Lot 23, Block 77, Plan 9910432

APPROVED VARIANCES

1. To section 2.4-1 to approve a side yard setback of 0.9m instead of the required 1.5m

STANDARD CONDITIONS

1. All construction associated with the approval of this Development Permit shall comply with the regulations of the Land Use Bylaw (LUB) 2018-22, unless otherwise stated under the approved variances section of this document.
2. All construction associated with the approval of this Development Permit shall comply with the Town of Canmore Engineering requirements outlined in the Engineering Design and Construction Guidelines (EDCG).
3. All construction associated with the approval of this Development Permit shall comply with the Tree Protection Bylaw and ensure all tree protection measures are appropriately put in place prior to development of the site, where determined necessary by the Town of Canmore Parks Department.
4. All construction, landscaping and exterior finishing materials are to be as shown on the approved plans and other supporting material submitted with the application.
5. Access to the site for emergency vehicles shall be to the satisfaction of the Manager of Emergency Services.

SPECIFIC CONDITIONS

1. None



Planning & Development Department

Town of Canmore
902 - 7th Avenue
Canmore, AB, T1W 3K1
www.canmore.ca

ADVISORY COMMENTS

1. None

Signature
Subdivision and Development Appeals Board

Date

IS A NOTICE POSTING REQUIRED: YES NO

**Notification Letters mailed to Appellant
and Adjacent Landowners**

Town of Canmore

902 7th Avenue

Canmore, Alberta T1W 3K1

Phone: 403.678.1500 | Fax: 403.678.1534

www.canmore.ca



July 27, 2023

Dear Mr. and Mrs. Lechelt,

**RE: Subdivision & Development Appeal Board Hearing
PL20230120
Development Permit – Air Conditioning Unit within a Side Yard Setback
Lot 23, Block 77, Plan 9910432
630 1st Street
Appeal against a refusal by the Development Officer**

Please be advised that the Subdivision & Development Appeal Board will hold a new hearing for this appeal on **September 7, 2023, at 2:00 p.m. in the Council Chambers of the Civic Centre, 902 7th Avenue, Canmore.**

This matter was previously heard by the SDAB on June 23, 2023. The SDAB determined that a new hearing is required as the notice requirements were not met for the previous hearing. The SDAB will not be taking oral submissions made at the previous hearing into consideration. Any affected parties wishing to make oral submissions to the SDAB in relation to this matter should attend the new hearing. Written submissions received at the previous hearing will be submitted at the new hearing.

As the applicant/appellant, you have the opportunity to present in-person and/or provide a written submission to the Board.

In-Person: **Date:** September 7, 2023
 Time: 2:00 p.m.
 Location: Council Chambers, Civic Centre, 902 7th Avenue, Canmore

Virtually: **Date:** September 7, 2023
 Time: 2:00 p.m.
 Zoom: <https://us02web.zoom.us/j/84916059482?pwd=T2ZhZUU2aHJ3YVozK3pZYUdCdkF6dz09>

In-Writing: **Subject:** SDAB Hearing – PL20230120
 Deadline: September 1, 2023
 Drop Off: Reception, Civic Centre, 902 7th Avenue, Canmore
 Email: municipal.clerk@canmore.ca

Please note: Any submissions received after the deadline will not be presented to the Board for review until at the hearing. Should you provide a written submission after the deadline, 10 copies will be required to be distributed to the Board and the applicant. Should a written submission include complex and/or extensive information, the Board may postpone the hearing to fully consider the submission.

Any correspondence/comments provided will be part of the public record and may be released to the public.

Should you have any questions or require further information regarding this matter please contact the Municipal Clerk's Office at 403-678-1550.

Kind regards,

Sara Jones
Clerk, Subdivision & Development Appeal Board

Attachment 1: SDAB Hearing procedure.

Attachment 2: Circulation map.

PROCEDURE FOR SUBDIVISION & DEVELOPMENT APPEAL BOARD HEARING

PLEASE NOTE: ALL DOCUMENTS PRESENTED AT THIS HEARING ARE PUBLIC DOCUMENTS

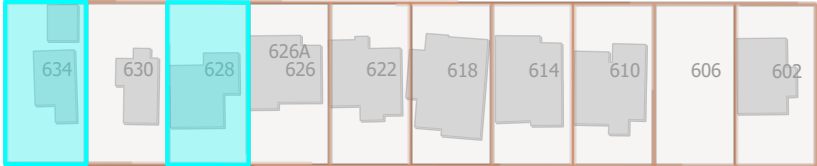
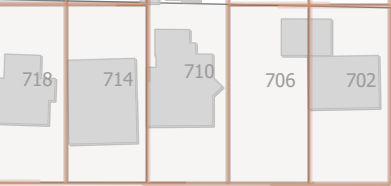
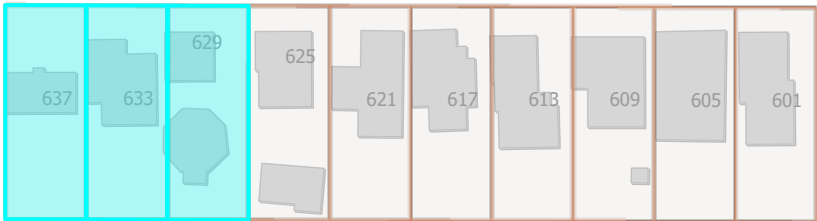
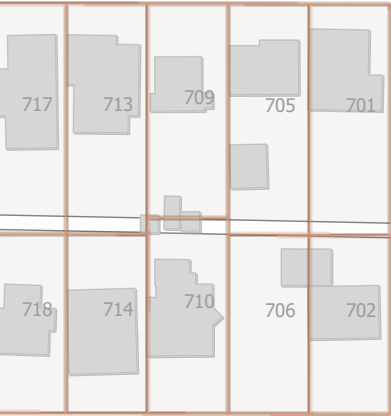
1. The Chair declares the Subdivision & Development Appeal Board Public Hearing to order.
2. Introduction of the Board members and Clerk.
3. Adoption of Agenda.
4. Adoption of Minutes.
5. Introduction of Town Administration.
6. Introduction of appeal by Development Officer.
7. Appellant introduction and opportunity for any objections to the Board members.
8. Applicant introduction and opportunity for any objections to the Board members.
9. Administration will make a presentation.
10. Appellant or their agent will speak in favour of the appeal and have the opportunity to make a presentation.
11. Followed by others speaking in favour of the appeal, and any correspondence in favour of the appeal.
12. Then those speaking in opposition to the appeal, and any correspondence in opposition to the appeal.

13. Lastly, those speaking neither in favour nor in opposition to the appeal, and any related correspondence.
14. At any time, the Board may ask for clarification by any of the persons speaking to the appeal.
15. The Board may then ask for a short recess if necessary.
16. Administration will be asked if they wish to provide any corrections or closing remarks.
17. Appellant or their agent will be asked if they wish to provide any corrections or closing remarks.
18. The Appellant will be asked if they feel they have had a fair hearing.
19. The board would then close the public portion of the hearing (meeting is adjourned), go in camera (private), and review all the information provided. **The Board will then provide a written decision within 15 days following this hearing.**
20. The purpose of the hearing is for the Appellant and affected parties to provide the Board with information to the appeal. **The Board must base its decision on planning merits.** Affected persons will be given an opportunity to speak.
21. Please ensure that all comments are directed to the Chair. In addition, all comments be of proper decorum and be succinct; if another person has already made a point, simply state that you agree with the point and continue.
22. If any person presenting is referring to a written document, including a map, photographs or a report, a copy of those documents must be left with the Clerk.



2 Street

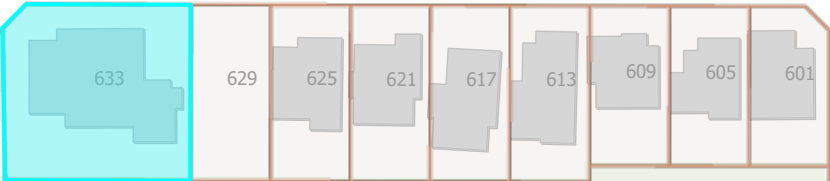
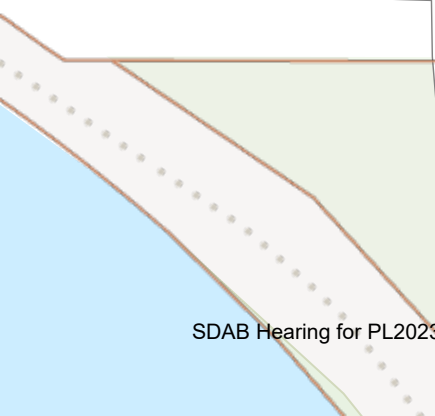
2 Street



1 Street

1 Street

6 Avenue



July 28, 2023

Our Reference: PL20230120

Subdivision and Development Appeal Board Hearing

Dear Sir/Madam

This letter serves as notification that the following property is subject to an appeal to be heard by the Subdivision and Development Appeal Board (SDAB). The details are as follows:

Development Permit – Air Conditioning Unit within a Side Yard Setback

Address: 630 1st Stret
Legal Description: Lot 23 Block 77 Plan 9910432
Appeal Matter: Against a Refusal by the Development Officer

This matter was previously heard by the SDAB on June 23, 2023. The SDAB determined that a new hearing is required as the notice requirements were not met for the previous hearing. The SDAB will not be taking oral submissions made at the previous hearing into consideration. Any affected parties wishing to make oral submissions to the SDAB in relation to this matter should attend the new hearing. Written submissions received at the previous hearing will be submitted at the new hearing.

As an adjacent property owner, or as a potentially affected person, you have the opportunity to present in-person and/or provide a written submission to the Board. Written submissions made at the June 23 hearing will be provided to the SDAB for this hearing.

In-Person: **Date:** September 7, 2023
 Time: 2:00 p.m.
 Location: Council Chambers, Canmore Civic Centre, 902 7th Avenue, Canmore

In-Writing: **Subject:** SDAB Hearing – PL20230120
 Deadline: September 1, 2023
 Drop Off: Reception, Canmore Civic Centre, 902 7th Avenue, Canmore
 Email: municipal.clerk@canmore.ca

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Any correspondence/comments provided will be part of the public record and may be released to the general public.

The SDAB hearing procedure and circulation map is attached for your reference. Additional information is available upon written request.

Should you have any questions or require further information, please contact the SDAB Clerk at municipal.clerk@canmore.ca

Kind regards,

Sara Jones
Clerk of the Subdivision & Development Appeal Board

Attachment 1: SDAB Hearing procedure.

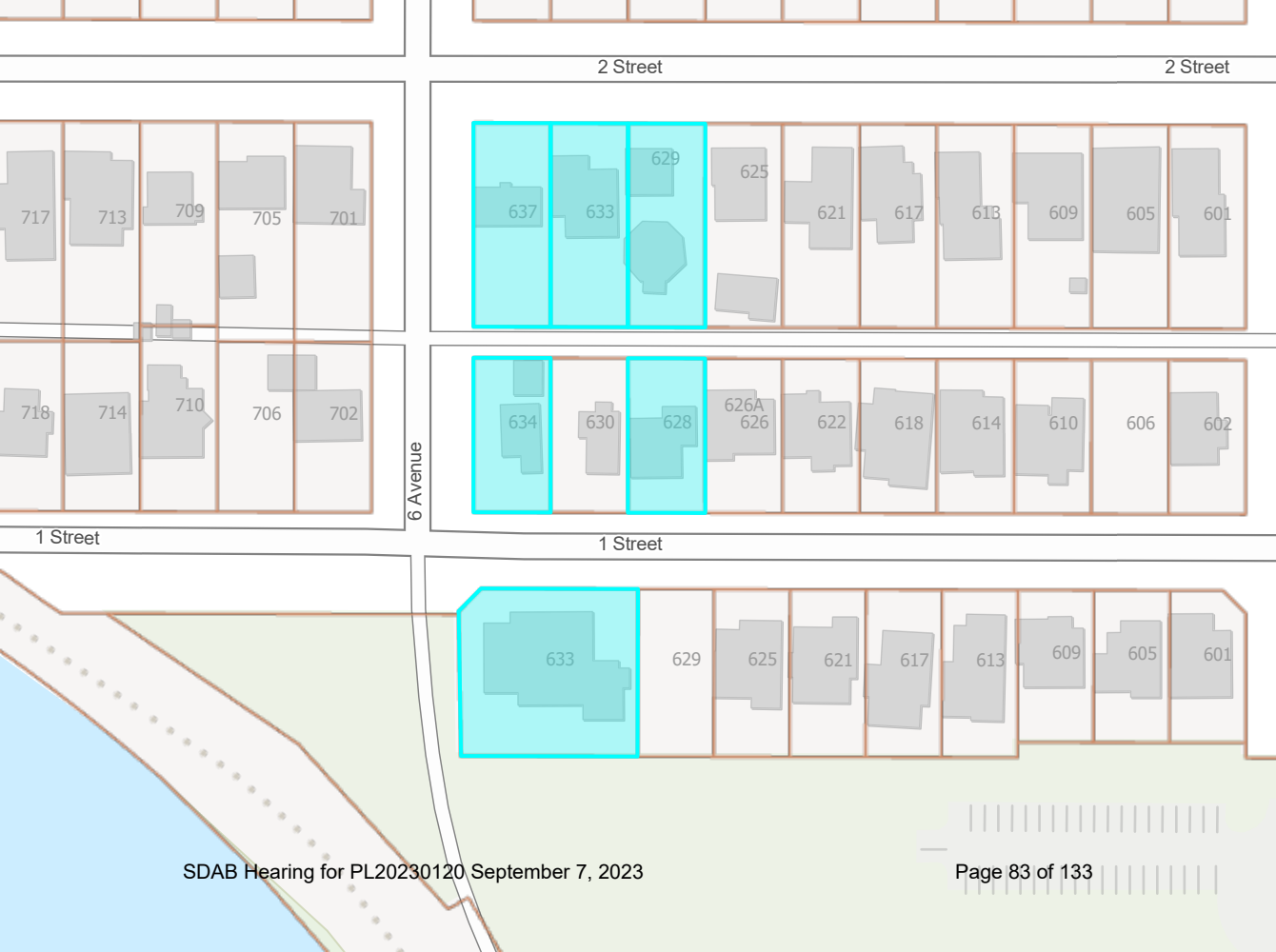
Attachment 2: Circulation map.

PROCEDURE FOR SUBDIVISION & DEVELOPMENT APPEAL BOARD HEARING

PLEASE NOTE: ALL DOCUMENTS PRESENTED AT THIS HEARING ARE PUBLIC DOCUMENTS

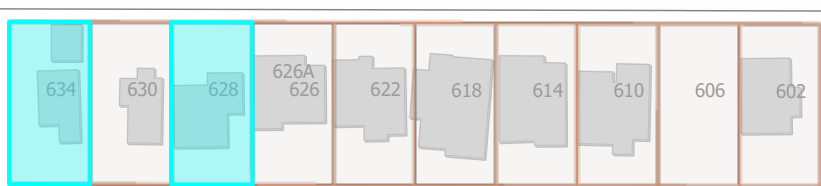
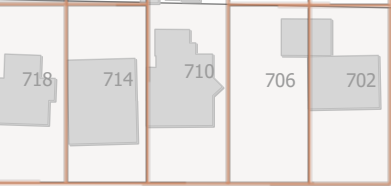
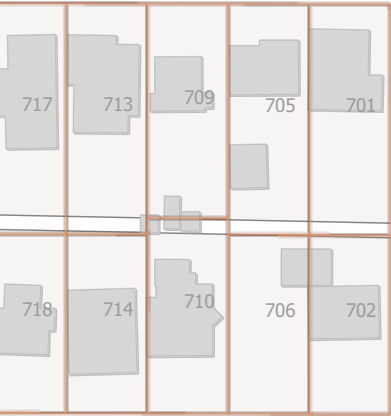
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17. Appellant or their agent will be asked if they wish to provide any corrections or closing remarks.
18. The Appellant will be asked if they feel they have had a fair hearing.
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20. The purpose of the hearing is for the Appellant and affected parties to provide the Board with information to the appeal. **The Board must base its decision on planning merits.** Affected persons will be given an opportunity to speak.
21. Please ensure that all comments are directed to the Chair. In addition, all comments be of proper decorum and be succinct; if another person has already made a point, simply state that you agree with the point and continue.
22. If any person presenting is referring to a written document, including a map, photographs or a report, a copy of those documents must be left with the Clerk.



2 Street

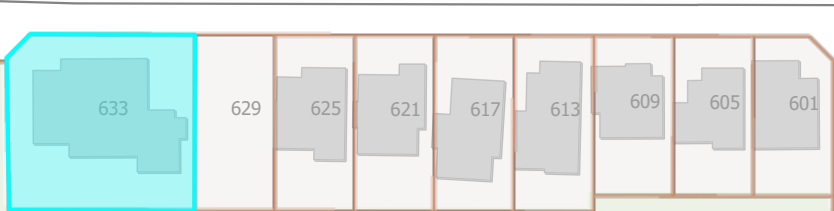
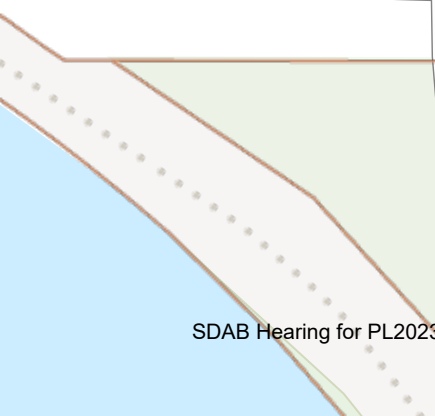
2 Street



1 Street

6 Avenue

1 Street



Written Submissions

From: [Brett Adams](#)
To: [Shared.MunicipalClerk](#)
Subject: SDAB Hearing - PL20230120
Date: June 19, 2023 8:44:17 AM

You don't often get email from [REDACTED] [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Sir/Madam

On July 30/31, 2022, we were visiting 628 1st Street. As we walked up the front walk to the house, my wife and I immediately turned to David & Andrea & asked them. "What is that noise?" Their response was, " Our neighbours air conditioner". Over the years of visiting with David & Andrea , we always sleep really well, even when it's hot (they do not have air conditioning). This time, the sound of the air conditioner running off/on during the night was very disruptive. We both have hearing aids and even when we took them out to sleep the vibration and noise of the air conditioner disrupted our sleep. Once woken we could not get back to sleep since it was running intermittently. We even tried ear plugs but that also didn't help. It completely ruined our sleep and we felt so badly for David and Andrea. The next morning, we were asked how we slept, and we couldn't help but share how difficult it was to have a good sleep.

It is puzzling to us why a neighbour would install an air conditioning unit that directs such noise at the neighboring house. This neighbour seems not to be "reflective of a respectful neighbourhood" and hopefully will be resolved quickly through an alternative location.

Thank you, Brett & Pam Adams

From: [Adams, Levi](#)
To: [Shared.MunicipalClerk](#)
Cc: [David Burghardt](#)
Subject: SDAB Hearing - PL20230120
Date: June 19, 2023 10:21:45 AM
Attachments: [image001.png](#)
[image002.png](#)

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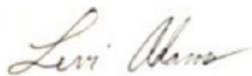
To whom this may concern,

My wife and I have visited 628 1st Street twice in the last year (August 5-7, 2022 and June 3-4, 2023) and would like to share some of our experience with the noise levels in the area.

During our time in August we slept in the home on west side of the building and had to keep the windows closed during our stay because the west neighboring A/C unit was making too much noise, specifically turning on and off throughout the night. We then returned for day visits this June with our children and while spending time visiting in the back yard we would be interrupted by the on and off of the west neighbour's A/C unit.

We are respectfully wondering if anything can be done to mute the sound of this air conditioner or have the location changed to a less intrusive noise location?

Thanks for your time,



Levi Adams A.Ag
Territory Account Manager -Saskatoon, SK



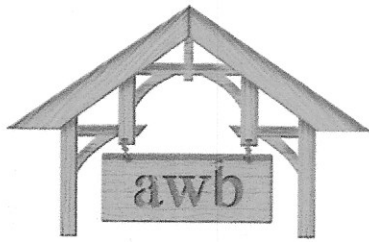
Saskatoon, Saskatchewan
M: 1-306-221-0273 | E: Levi.Adams@corteva.com
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allweather builders

To Whom it may concern,

Re the Air conditioner located at 630 1st Street Canmore

Allweather Builders when looking at the town bylaws is confused as to why in a side yard set back you can add a counter lever, window well, stairways, landings and mechanical venting. The same size as this air conditioner which you cannot add, this air conditioner is less than 2 feet. We are not sure why air conditioners do not fall into this category.

Thanks,

Allweather Builders

At this point I am fully against allowing a variance on this property. Forgive me if I am incorrect, it appears the owners have no regard for the for Canmore development requirements. I have done some rudimentary calculations and it appears this is 1 of several variances requested.

1. The matter in question.
2. The front yard setback.
3. The rear setback
4. The lot coverage
- 5, the 4th floor terrace.
6. The height with and without 4th floor terrace

These combined items resulted in numerous trees being removed (All except one in the 1.5 m front utility corridor).

This development, with all its variances, has significantly impacted our views, the natural environment, our enjoyment of the property as well as its value. The development does not appear meet the intent of Canmore's requirements and the spirit of our mountain town.

Adrienne Blazo

Dear Sir/Madam Chair

June 23, 2023

**Re: Development Permit PL20230120
Air Conditioning Unit with a Side Yard Setback**
Address 630 1st Street
Legal Description Lot 23 Block 77 Plan 9910432
Appeal Matter Against a Refusal by the Development Officer

This letter is a statement of impact regarding the SDAB hearing of PL20230120. We are adjacent property owners and persons affected by the installation and noise disturbance of the air conditioning unit ("A/C") at 630 1st Street, Lot 23 Block 77 Plan 9910432.

Thank you for the opportunity to describe the significant impacts this A/C has on us, our household, and our neighbourhood.

We have owned a home in Canmore for 23 years; 13 years at the present location and soon to become full time upon retirement. Reference to our status as "recreational property owners" as positioned by the appellant is irrelevant to the Land Use Bylaws (LUB) and Community Standards Bylaws issues under discussion today.

Introductory Statement

From what I can see, most of the appellant's submission is an attempt to distract and obfuscate from the one very simple issue before this appeal board; whether the appellant who violated the rules should get away with it, and if so, why?

Background

The house at 630 1st Street was constructed during the period from January 2021 to May 2022. As the town does not release copies of building plans or permit records without the property owner's consent, I asked the owner, prior to construction, if he would share the house plans with us. He agreed, however he did not follow through; at no time were we able to obtain any plans, drawings or renderings of the house.

On September 30, 2021 we were invited to tour the ongoing house build and were directed to where the elevator was to be installed, that it would rise to the 3rd level and open onto a guest coffee area. We were shown the butler's pantry, the expansive kitchen and spacious living room and bedrooms including the gym with full length windows that looked out on to the backyard. We were advised that the barbeque was to be installed on a balcony off the kitchen on the second floor that faced one of our windows and we suggested we would cover our window with an opaque film (this was completed shortly thereafter) so that both parties could enjoy the daylight while providing privacy for both homes. At no time were we informed that an air conditioner was to be installed.

The owners were granted an occupancy permit on June 22, 2022 and assumed residency on June 27, 2022. There was no sign at that time of an air conditioner. The first time we saw and heard the A/C running was upon returning to our home from our holiday on July 29th.

After coping with the next two days of continuous intermittent noise disruption from the A/C, we contacted the ToC on August 2. The Planning Department advised me the approved plans did not include variances to the Land Use Bylaw, met the minimum setbacks in the R1 district and did not reference an air conditioner. Following this correspondence and quickly looking up and reviewing the Land Use Bylaws, I concluded the air conditioner was installed in a location that was in contravention of the Land Use Bylaw (as more explicitly described in Table 2.4-1 reproduced in its entirety below – please see highlighted row). The table precisely states that an air conditioner can not project into the front, rear or side yard setback. It is clear from consulting Table 2.4-1, the appellant and his architect, designer, builder, equipment supplier and tradesmen would have seen that their envisioned installation location at 630 1st Street would violate the bylaw.

Table 2.4-1 Maximum permitted residential projections in yard setbacks

Structure	Front yard	Rear yard	Side yard
Air conditioning equipment	None	None	None
Bay Window that does not increase the floor area	1 m	1 m	None
Canopy [2020-16]	0.61 m	0.61 m	0.61 m
Cantliver on the principal dwelling	1 m	1 m	0.61 m
Chimneys	0.61 m	0.61 m	0.61 m, but in no cases closer than 1.2 m to the property line
Eaves, sills, gutters	0.61 m	0.61 m	0.61 m
	An additional 0.3 m where extending beyond a cantilever on a Detached Dwelling or Duplex Dwelling.		
Patio	<ul style="list-style-type: none"> • 1 m into waterbody setback [2021-24] • Full projection for all other setbacks [2021-24] 		
Stairways and landings greater than 0.61 m above grade, leading to the principal dwelling	3 m	3 m	1 m (into one side yard only, where the stairs/landings are 2 m or less above grade)
Uncovered balconies, Uncovered decks and porches less than 4m above grade [2020-16]	2 m	2 m	None
Mechanical venting	0.61 m	0.61 m	0.61 m

The Planning Department suggested we speak with the owners of 630 1st Street to seek a resolution. On August 15 we agreed to a meeting which occurred on August 22. We explained we respected their entitlement to install an air conditioner however it was nonconforming as per Table 2.4-1. They advised us they would not move the unit but agreed to look into the matter and said they would get back to us. They also stated that we may not be happy with the outcome if they did move it.

Texts were exchanged between August 10 and October 17 at roughly 3 week intervals.

On October 20, our neighbour at 626 1st Street bumped into the appellant on the riverbank path. The appellant stated that *"Andrea's texting or calling me every other day and I'm tired of it"*. Based on this reaction we immediately stopped texting. Other than the brief contact on August 15 and discussion we initiated on August 22 we have had no contact with the appellant – no emails or other written or verbal communication. We rang their doorbell in early December and left a card but we did not receive any indication they had received the card or acknowledgement that we had stopped by despite the video surveillance fixed at the front door. Although we often see the appellant, they do not initiate communication or interaction of any fashion and turn away when we are on our deck or in a sightline. They have not provided any additional information on what they intend to do with the A/C and regrettably, have not spoken or otherwise made contact with us since the final text of October 17 that reads;

"We will let you know when if/when we have anything more to share. No need to remind us. No news is just that - no news yet! We both have an incredibly busy week and in fact I am still working now at 11 pm - since 8 am".

Please see Appendix 1 and 2 for a copy of ALL the texts in their entirety exchanged with the appellant and a transcript of a conversation between the appellant and the 626 1st Street neighbour. The text record will show that we did not threaten, harass, accuse, ridicule or prejudice discussion with them. We merely wanted to understand how we could collectively, reasonably, and amicably resolve this issue.

Statements of Expertise

The appellant represents that they and their architect, designer, builder, equipment supplier and tradesmen ("the building group") are qualified subject matter experts in the matters under discussion. Given this claim, it would be reasonable to assume the following;

1. The building group knew what it was doing and understood the LUB.
2. It would be easy to draw the conclusion that the air conditioner was withheld from the drawings due to a known violation of the LUB.
3. The architectural designs/plans, builder working drawings, supplier specifications and tradesman installation requirements were accepted and paid for by the appellant.

It is clear the appellant took responsibility for the breach of LUB. We respectfully request the ToC take responsibility for enforcing the LUB and **deny** a variance.

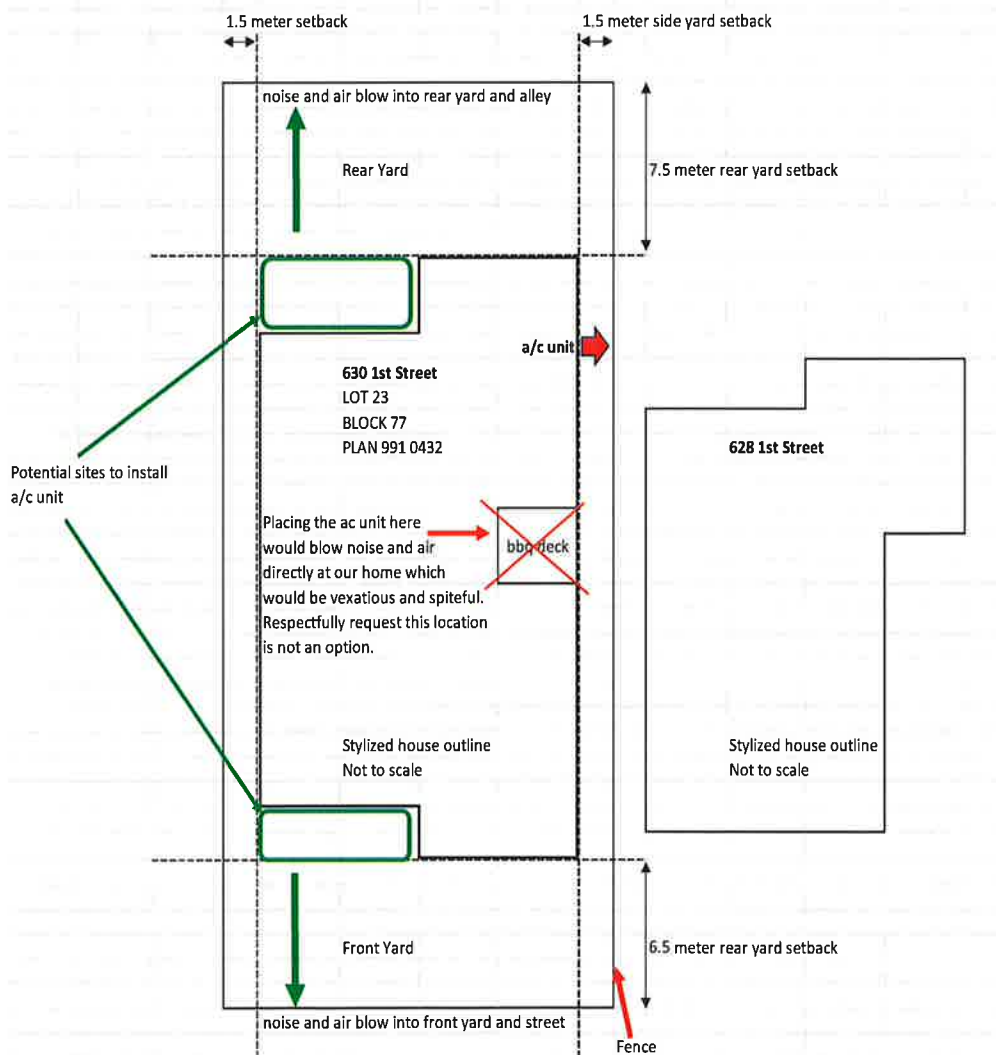
Objections to Granting a Variance

We respectfully request that the Subdivision and Development Appeals Board **deny** a variance for the following reasons.

Issues related to the LUB

1. As shown in the simplified diagram included as Figure 1, there are alternative locations that conform with Land Use Bylaws and mitigate significant impacts. Since the A/C directs its noise and air in a horizontal fashion and not vertical, it can be positioned to blow into either the front or back yard to minimize noise disturbance to offsetting neighbours on either side of 630 1st Street. In addition, these alternative locations provide multiple ways to screen, decorate, and minimize the visual impact of the A/C.

FIGURE 1



This is consistent with the SDAB Staff Report that states “there are two locations on site where the unit would be in compliance with this requirement” which are at the same position as outlined in green in Figure 1 and precisely what we encouraged the appellant to consider when we met on August 22.

As per the alternative locations in Figure 1, the A/C could be directed to blow either to the front street or the back alley. If the A/C is directed to the back alley the noise will travel predominantly into the **unconstrained rear yard** and **not the narrow tunnel side yards** of offsetting neighbours. The next closest property line at 631 2nd Street, directly offsetting an alternative location, is estimated to be 46’ away from the property line compared to the existing distance of 3’ from the property line at 628 1st Street.

630 1 st Street rear yard setback	7.5 meters
<u>Back alley</u>	<u>6.5 meters</u>
Total	14 meters or 46’

The sound measured in the rear yard of 631 2nd Street could be further dampened with the multiple vegetative plant barriers that can be planted in the rear yard of 630 1st Street, the grasses, shrubs, trees and fence at the alley. If the appellant was to sell his A/C in the used equipment marketplace and purchase an A/C with a vertical blower then the noise and vibration impact could be further reduced. This is an effective way to abide by the LUB and move the A/C into a location that does NOT move the problem to another home occupant.

- 2. In addition, we strongly object to the following comment on page 4 in the “Subdivision and Development Appeal Board Staff Report” under the Planning Department Position section.

“The Planning Departments opinion is that the location of the unit is not the primary reason for the noise issues being caused. There is the possibility that relocating the unit may have the potential to reduce the impact to the properties which have raised the concerns, but it may also just move the problem to another area thus impacting different residents.”

I would challenge this comment. I would assert that if the A/C is moved to an alternative location, as described above in point #1, the noise and the overall impact to all residents will be less. Also there are other air conditioners that operate at noise levels much lower than the KeepRite A/C, with its minimum operating noise level of 66 dBA, and there certainly are A/Cs that vent vertically which also mitigates noise impact.

The following is a summary of air conditioners with an average operating noise level within the range of 40-50 dBA.

- Daikin - Daikin offers outdoor units known for their quiet operation, such as models in the Daikin DX20VC series, with noise levels around 40-45 dBA.
- Mitsubishi Electric - Mitsubishi Electric has outdoor units like the MXZ series, known for their low noise levels, which can range from 40-50 dBA.

- Fujitsu - Fujitsu offers outdoor units like the AOU24RLXFZ, which are designed to operate quietly with noise levels around 38-45 dBA.
- Panasonic - Panasonic manufactures outdoor units like the Panasonic CU-3KE19CS and Panasonic CU-4KE24CS, which are known for their quiet operation with noise levels around 40-45 dBA.
- LG - LG produces outdoor units like the LG LAU/LAN120HSV2 and LG LAU/LAN180HSV2, which are designed to operate quietly with noise levels around 40-45 dBA.

3. Further to Figure 1, the appellant's architect, Alasdair Russell, of "russell and russell design studios" in a letter of Friday 26 May 2023 states that

"Ron and Leah [...] are currently considering the middle level BBQ deck. This is a far worse location for an AC unit and the noise that might be heard from the neighbouring properties, and they (ie russell & russell) would like to avoid this".

Considering the above comment, the middle level BBQ deck location would be vexatious and spiteful.

Alasdair Russell further writes *"Providing a variance to allow AC units to be placed in a rear setback rather than a side setback would allow the AC units to be placed slightly further away and provide a potential reduction in noise."*

The above aligns with the ToC Bylaw Conformance/Variance Discussion point #1 that "there are two locations on site where the AC unit would be in compliance" with the LUB (ie rear yard and front yard alternatives).

This directly supports our view in point #1 and that the variance should be denied. Rear or front yard alternatives should be prioritized as a means to reduce A/C noise.

4. The appellant chose the KeepRite A/C to fit in a tight space and minimize projection into the side yard. The manufacturer recommends this A/C for multi-family housing developments. Typical R1 residential applications blow vertically to maximize noise dispersion and minimize noise impact rather than blowing horizontally like the KeepRite. In addition, R1 A/Cs generally sit on concrete blocks on a gravel pad to disperse vibration. The KeepRite A/C as installed at 630 1st Street meets neither of these R1 characteristics and as a result amplifies the noise and vibration impact.
5. It is our view that cost is not a justified argument against relocating the A/C. It is not our intention to opine on the cost, however the construction of 630 1st Street suggests the appellant would have the resources to comply with the ToC LUB.
6. Discussions with HVAC supplier and installer, Breck Chapman of Hunters Heating Furnace in Calgary, indicates he installs this particular A/C (KeepRite NH4A4) up to 50'-60' away from the mechanical room with no impact on performance. The lot at 630 1st Street is 100' deep and the current mechanical room is estimated to be approximately 35' from the front yard property line which leaves 65' to the rear property line and 40' to the back of the house. With up to 50'-60' of flexibility to move the A/C there is no practical, physical, or mechanical limitation to where the unit can be moved.

The yellow arrow in the photo below is pointing to a conduit that traverses the garage driveway slab which will accommodate utilities. The appellant can feed the electrical cable and freon hose into the conduit to traverse the slab and install the A/C in an alternative location. The red arrow points to the general location of the mechanical room. The green arrow points to the detail of the electrical cable and freon hose to give the reader an idea of the size and scale of the utility required to be moved. This is one option to assist in moving the A/C. Another option would be to run the electrical cable and freon hose from the mechanical room and traverse inside the garage to an exterior point that would allow the A/C be moved into the alternative location.

Both of these relocation options appear to be reasonable and achievable solutions.



Issues related to the Community Standards Bylaws

1. Russell and Russell's letter of Friday 26 May 2023 states that *"The Lechelt's have placed their AC unit within the sideyard setbacks and were informed that this was acceptable unless there were noise complaints from neighbours"*.

Once again, the appellant accepted responsibility despite being informed that this may cause significant impact to neighbours. The appellant's breach of the LUB has caused significant noise impact to neighbours. Given these circumstances, we strongly request the variance be denied and that the SDAB not reward this behavior.

2. The A/C is mounted at the rear of the garage and points directly into our backyard. The intermittent and direct noise detrimentally limits the use and enjoyment of our backyard. Moreover, the fence at the property line exacerbates the reverberation and redirects the noise into the side yard between the houses. The noise is loud, disruptive, and materially interferes with our use and enjoyment by day and sleep by night.
3. When the A/C is running, we have to close all our windows on the side that faces the appellant's home as well as any windows in the back of our house to reduce the noise indoors. Even with the triple pane windows closed, we hear a low rumble and can feel a vibration throughout our house. This is particularly disruptive in the ground floor bedroom facing the side yard and the upper level master bedroom window on the backyard, because they are sleeping areas. As a result closing all of our windows to reduce the noise negatively impacts our ability to cool and ventilate our home.
4. The following noise levels of the A/C have been recorded with an iPhone sound level meter, for indicative purposes only, as we await Type 2 noise level meter Town measurements which have been requested:
 - a. Up to 77dBa measured at the property line
 - b. Up to 68dBA measured from inside the open window of our ground floor bedroom
 - c. Up to 68dBA measured from inside the open window of our upper floor master bedroom

The manufacturer of the KeepRite A/C advertises their minimum noise level of 66dBA, which exceeds the ToC maximum night noise level. Since it will never comply with the Community Standards Bylaw it should not be permitted to operate between 10pm and 7am.

Conclusion

Bylaws protect and preserve our right to lawfully and peacefully enjoy our property without interference or disturbance from others. We have described and demonstrated the following significant impacts on us, our household and our neighbourhood.

LUB Conclusions

- The current position of the A/C does not comply with the LUB. The reason we are here today is because the appellant chose to ignore LUB and law abiding character of the community by completely disregarding the LUB and the community that supports, relies upon and abides by them.
- There are alternative locations for the A/C that are reasonable, achievable and that comply with the LUB while mitigating noise impacts. In addition they provide multiple ways to screen, decorate, shroud and minimize the visual impact of the unit according to the requirements of the appellant.

Community Standards ByLaw

- The A/C noise and vibration impact causes significant sleep disruption/disturbance.
- Noise impact exceeds Community Standard Bylaw maximum of 60dBA at night.
- Loss of quiet enjoyment day and night.
- Forced to close windows essential to airflow and natural cooling and enjoyment of our home.
- Potentially damaging to the value of neighbouring properties.

We therefore respectfully request the Subdivision and Development Appeals Board to:

- **Deny** a variance to the side yard setback.
- **Deny** installation of the A/C on the 2nd level bbq deck, since that location would still fail the Community Standards Bylaws and reflect vexatious and spiteful intent.

Thank you very much for your consideration.

David Burghardt
Owner - 628 1st Street

Appendix 1

Chronology of Text Messages (replicated in their entirety)

Wed Aug 10, 2022

- A (with photo of car in front of house) Hi Leah, I'm pretty sure this is your car (?) May you please kindly move it from in front of our place? Thank you very much. Did not know which number to use so you may get this twice... 🗑️
- L Sure, thx for the reminder. We had to move the cars last week to make room for Dave L's demolition crew and I forgot to move it back More crews coming today and Friday though so there will be more moving of vehicles
- A Thanks so much Hopefully there's plenty of street front you can use that's not in front of our house ❤️ David's up tonight so we may try and pop by if you're around and it's not too late (?)
- L We both have work deadlines tomorrow am so will likely be working this evening, so let's try for another time!
- A Ok, sounds good. Good luck with that.

Tues Aug 30, 2022

- A Good morning Leah, thanks again for the chat last weekend. Any luck with your builder on Friday? Talk soon, Andrea
- L Hi Andrea. His A/C person is on vacation but will look into things when he's back next week.

Sat Sept 24, 2022

- A Hi Leah, hope you had a nice vacation. Any news on the AC?
- L Hi Andrea. Our builder did talk to his AC folks but then we were away and now our builder is away on vacation. So more info still to come.

Sun Oct 16, 2022

- A Hi Leah, just checking in for anything you may have in mind. We'll be around later this afternoon if you want to chat. Have a good day.

Mon Oct 17, 2022

- A Hi again! We ended up leaving pretty quickly so didn't get a chance to circle back. Would you be free for a call tonight or later this week?
- L We will let you know when if/when we have anything more to share. No need to remind us. No news is just that - no news yet!
We both have an incredibly busy week and in fact I am still working now at 11 pm - since 8 am.

A- Andrea Jung, 628 1st Street

L – Leah Lechelt, appellant

From: [lorabur](#)
To: [Shared.MunicipalClerk](#)
Subject: IMPACT STATEMENT SDAB Hearing - PL20230120
Date: June 18, 2023 10:02:10 PM

You don't often get email from [REDACTED] [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Re: IMPACT STATEMENT SDAB Hearing - PL20230120

Dear Sir/Madam

Over the period of August 13,-15, 2022, I was visiting at 628 1st Street. I typically sleep on the ground level in a bedroom that looks onto the side yard of 630 1st Street.

Since the bedroom is on the ground level it is cool during the warm summer period and very quiet and so I look forward to a good night's rest after a day of activity in the mountains.

However this was not the case during our last visit – the bedroom was cool to be sure but the sound of the air conditioner running off/on during the night was unbearable. I was constantly battling the intermittent noise and vibration of the neighbouring air conditioner. It disrupted my sleep, it woke me up several times and I could not get back to sleep since it was running intermittently. Ear plugs would not stop the drone and vibration coming from the neighbouring AC unit.

It completely ruined my sleep and really makes the room unusable for anybody who wants to have a good night's rest.

The next morning I expressed my frustration and disbelief that a neighbour would knowingly install an air conditioning unit in such a fashion whereby he directs all the noise at his neighbour and enhances his comfort and well being at the sole expense of his neighbour. In my opinion, the location of the neighbouring AC is a violation of "all things neighbourly" or "fair and reasonable" not to mention local bylaws.

Thank You

Tim Burghardt

David & Tanya Collins



Wednesday, July 12, 2023

Re: SDAB Hearing – PL20230120

Town of Canmore SDAB Members
902 7th Avenue,
Canmore, AB

Sent by email c/o municipal.clerk@canmore.ca

To Whom it May Concern,

We would like to support Ron and Leah Lechelt in their application for a variance to permit the continued installation of their air conditioning unit in its present location.

Our reasons for this are as follows:

- The unit's current location inside the property line, does not violate any of the principles outlined in the Land Use Bylaw that we can see. Emergency access is not compromised. There is no Fire Safety issue. The adjacent neighbours' privacy is maintained, and the unit is properly screened for aesthetics.
- A/C units are a health and safety requirement for many Canmore residents and they are legal to own and use. Given the increasing incidence of wildfire smoke and extreme heat events, no homeowner should ever be subjected to a public hearing to defend their medical needs.
- The unit's location (0.9m from the property line) is consistent with the set back requirements for exterior staircases, eaves, and garages. Making air conditioning have a larger setback is in essence an undue restriction for people who require them for their health.

We urge the SDAB members to grant the Lecheltes this variance, recognizing its need and the fact that there has been somewhat inconsistent and capricious rules governing the installation of air conditioning units in the Town of Canmore.

Sincerely,

David & Tanya Collins

June 20, 2023

Re: Development Permit PL20230120
Air Conditioning Unit with side yard setback
630 1st Street, Canmore
Lot 23 Block 77 plan 9910423

Appeal Matter: Against a Refusal by the Development Officer

Dear Members of the Subdivision and Development Appeal Board;

My permanent residence is 626 1st Street, two doors down from 630 1st Street.

I submit this impact statement to object to the request for variance and to respectfully request that:

1. the Subdivision and Development Appeals Board **not grant a variance** to the side yard setback;
2. if the air-conditioning unit ("AC") is moved to another location on the property at 630 1st Street that it comply with the Town of Canmore's Land Use Bylaw, Community Standards Bylaw, and Climate Action Plan;
3. if the AC at 630 1st St is moved to another location on the property that mitigating measures be taken so it does not disturb neighbours and
4. that the AC be turned off between 10pm and 7am until such time that this issue is resolved.

I've been impacted by the AC at 630 1st Street such that my lifestyle has been altered. Not sleeping well for a few nights at a time is manageable. Not sleeping well for a week or more is unmanageable and unhealthy. Persistent sleep deprivation has resulted in the cancellation of activities and was especially hurtful while recovering from surgery. The impact of this AC unit is more than simply "marginal" (see Subdivision and Development Appeal Board Staff Report, "Staff Report", page 4) and materially impacts the day to day living environments of neighbours.

On the advice of the Town of Canmore Planning Department and in attempt to foster a co-operative relationship, I approached the owners of 630 1st St on three occasions to discuss their AC. After introducing myself, I stated I was hopeful we could work collaboratively to find a path forward that would work for both owners and neighbours. The responses by the owners of 630 1st Street were, on all three occasions, less than friendly and demonstrated that there wouldn't be discussion or collaboration on the issue.

Our family lived in the Middle East for many years where AC is a necessary part of life. There was an individual AC unit in each room of our house. As much as the noise and vibration emanating from the AC at 630 1st St is annoying, it's the **intermittent nature of the unit's frequency** as well

as the **on/off cycling** that are surprisingly bothersome and are not white noise. Earplugs help block out some noise but do nothing to block vibration.

The Community Standard Bylaw states that the maximum nighttime level of an AC is 60dB. Measurements taken from the AC at 630 1st St have been 70dB, plus or minus. To give a sense of the levels of noise and vibration caused by the AC at 630 1st St, the decibel is a logarithmic scale so a 3dB increase is a doubling of sound and vibration energy.

Regarding noise level measurements, I was advised Municipal Enforcement won't accept any decibel readings taken by neighbours. Enforcement received its newly ordered decibel meter on or around June 10, 2023. Coincidentally, the weather has been cool since June 10. Planning and Municipal Enforcement directed neighbours to call the RCMP in the evening and night to report the noise. Since RCMP vehicles and Peace Officer vehicles have been driving by the property and since weather's been cool, the AC at 630 1st St has been shut off. Municipal Enforcement has been unable to take a realistic decibel reading due to cool weather and since the AC at 630 1st St has been turned off.

When the AC at 630 1st St is on after midnight and it's 11 degrees Celsius outside ironically, it's likely cooler outside than inside the air-conditioned house at 630 1st Street. Energy use in buildings (residential and commercial) is one of the accounting and reporting standards The Town of Canmore has committed to in the Town's Climate Action Plan (see Town of Canmore Climate Action Plan, December 2018). The Climate Action Plan ("CAP") reads "... action is required immediately in all of the sectors in order to set up the community for success. By adopting a 2050 aspirational target, the Town is signaling to citizens, businesses and industry that significant emission reductions are required now and into the future." Does not an AC running when it's 11 degrees Celsius outside contradict CAP? While the Town is committed to and is promoting best practices, large new homes (+4000sqft) that use a disproportionate amount of electricity to power AC's contradict its own policies and standards. This appeal is an opportunity for the Town to demonstrate and signal to citizens that the Town of Canmore adheres to and cares about its published policies and standards.

I spoke with the Town's Planning Department August 12, 2022. During that conversation I was told it was likely that the Town would request that the AC be moved to an alternative location on the property. I support this. However, if the AC is not moved and if this variance request is granted, it signals to citizens that it's OK for property owners, builder and trades to disregard Canmore's Land Use Bylaw and Community Standards Bylaw. It would also demonstrate that the Town's policies, standards, practices and enforcement aren't aligned.

I respectfully question how Planning can recommend the approval of PL20230120:

- A) when Section 2.4.3.1 of the Land Use Bylaw prohibits the projection of air conditioning units into the required side yard setbacks;
- B) without any noise level evidence taken in hot weather by Municipal Enforcement;
- C) despite three separate noise and vibration related objections to the Development Permit application and

D) based on Planning's subjective observations which are counter to the lived experience of neighbours.

Thank you for taking the time to consider the four requests listed above. The impact of AC's on our household, our neighbours, our neighbourhood and our Town are significant. The character of our neighbourhood has been one of respect and co-operation. I'm hopeful that this will continue once a resolution to this situation has been reached.

Gaye Harden

Appendix 2 – Conversation between Appellant and 626 1st Street on the riverbank on October 2022

Oct.20, 2022 5:30pm

Hi Dave;

Here's my recollection of the communication between Ron and Leah and me. Pretty unpleasant. Gaye

I ran into Ron and Leah on the river path on October 20, 2022 at 530pm

gh: Hi, how are you? They both said "fine" and smiled. I stopped. Any update on the AC?

Ron: no, any update on yours?

gh: Sorry, I don't understand?

Leah: Can I be blunt with you?

gh: you can be direct.

Leah: Andrea's txt'g or calling me every other day and I'm tired of it. Leah went on about Andrea bothering her.

gh: That's Andrea, that has nothing to do with me.

Leah: You're both talking about an AC

gh: Yes.

Leah; Why? I'm dealing with loads of contractors, do you know what they're like to deal with?

gh: Yes, I've built a couple of places.

Leah: We're last on contractors' list, it's winter, AC's are not a concern.

gh: Maybe not to you, your AC is a concern to me.

Leah: The AC won't be turned on til May why are you thinking about this?

gh: because it needs to be dealt with.

Leah: I'm working 12 hours a day, dealing with contractors and I don't have time for this.

gh: Well we all have lives don't we.

gh cycled off. No point discussing anything with someone so worked up and aggressive.

gh – Gaye Harden, 626 1st Street

Ron, Leah – Ron and Leah Lechelt, appellant

August 31, 2023

To: Town of Canmore Municipal Clerk, municipal.clerk@canmore.ca, and to the Subdivision and Appeal Board

Re: Development Permit PL20230120
Air Conditioning Unit with side yard setback
630 1st Street, Canmore
Lot 23 Block 77 plan 9910423

Appeal Matter: Against a Refusal by the Development Officer

Dear Members of the Subdivision and Development Appeal Board;

My permanent residence is 626 1st Street, two doors down from 630 1st Street.

I submit this impact statement to object to the request for variance and to respectfully request that:

1. the Subdivision and Development Appeals Board (SDAB) **not grant a variance** to the side yard setback;
2. this hearing be governed by the Community Standard Bylaw that was in place at the time of this appeal, at the time of the SDAB hearing of June 23, 2023 and prior to the new Community Standard Bylaw effective July, 2023;
3. if the air-conditioning unit ("AC") is moved to another location on the property at 630 1st Street that it comply with the Town of Canmore's Land Use Bylaw, and Climate Action Plan;
4. if the AC at 630 1st St is moved to another location on the property that mitigating measures be taken so it does not disturb neighbours and
5. that the AC be turned off between 10pm and 7am until such time that this issue is resolved.

The new Community Standard Bylaw came into effect July, 2023. I request that the version of the Community Standard Bylaw previous to the July, 2023 govern this appeal. The change to the Community Standard Bylaw came after this particular appeal was submitted and after the first SDAB hearing of PL20230120 on June 23, 2023. It's my understanding that in courts of law, the law of the case is when it occurred.

I've been impacted by the AC at 630 1st Street such that my lifestyle has been altered. Not sleeping well for a few nights at a time is manageable. Not sleeping well for a week or more is unmanageable and unhealthy. Persistent sleep deprivation has resulted in the cancellation of activities and was especially hurtful while recovering from surgery. The impact of this AC unit is more than simply "marginal" (see Subdivision and Development Appeal Board Staff Report,

“Staff Report”, for SDAB June 23,2023, page 4) and materially impacts the day to day living environments of neighbours.

On the advice of the Town of Canmore Planning Department and in attempt to foster a co-operative relationship, I approached the owners of 630 1st St on three occasions to discuss their AC. After introducing myself, I stated I was hopeful we could work collaboratively to find a path forward that would work for both owners and neighbours. The responses by the owners of 630 1st Street were, on all three occasions, less than friendly and demonstrated that there wouldn't be discussion or collaboration on the issue.

Our family lived in the Middle East for many years where AC is a necessary part of life. There was an individual AC unit in each room of our house. As much as the noise and vibration emanating from the AC at 630 1st St is annoying, it's the **intermittent nature of the unit's frequency** as well as the **on/off cycling** that are surprisingly bothersome and are not white noise. Earplugs help block out some noise but do nothing to block vibration.

The previous Community Standard Bylaw states that the maximum nighttime level of an AC is 60dB. Measurements taken from the AC at 630 1st St have been 70dB, plus or minus. To give a sense of the levels of noise and vibration caused by the AC at 630 1st St, the decibel is a logarithmic scale so a 3dB increase is a doubling of sound and vibration energy.

When the AC at 630 1st St is on after midnight and it's 11 degrees Celsius outside ironically, it's likely cooler outside than inside the air-conditioned house at 630 1st Street. Energy use in buildings is one of the accounting and reporting standards The Town of Canmore has committed to in the Town's Climate Action Plan (see Town of Canmore Climate Action Plan, December 2018). The Climate Action Plan (“CAP”) reads “... action is required immediately in all of the sectors in order to set up the community for success. By adopting a ... target, the Town is signaling to citizens, (and) businesses ... that significant emission reductions are required now” Does not an AC running when it's 11 degrees Celsius outside contradict CAP? This appeal is an opportunity for the Town to demonstrate and signal to citizens that the Town of Canmore adheres to and cares about its published policies and standards.

I spoke with the Town's Planning Department August 12, 2022. During that conversation I was told it was likely that the Town would request that the AC be moved to an alternative and suitable location on the property. I support this. However, if the AC is not moved and if this variance request is granted, it signals to citizens that it's OK for property owners, builder and trades to disregard Canmore's Land Use Bylaw and Community Standards Bylaw. It would also demonstrate that the Town's policies, standards, practices and enforcement aren't aligned.

As an example of how some municipalities and countries are handling the AC issue, “In Switzerland, strict environmental laws set at the canton level make it difficult to purchase an air conditioner; in Geneva, for example, a homeowner must prove that they have a legitimate need for one. Other cantons require that air conditioners meet certain energy-efficiency standards.”

<https://www.theglobeandmail.com/canada/british-columbia/article-bc-to-require-all-new-homes-have-a-temperature-controlled-room/>

I respectfully question how Planning can recommend the approval of PL20230120:

- A) when Section 2.4.3.1 of the Land Use Bylaw prohibits the projection of air conditioning units into the required side yard setbacks;
- B) without any noise level evidence taken in hot weather by Municipal Enforcement;
- C) despite 5 separate objections presented at the SDAB June 23, 2023 hearing plus 4 letters of objection and
- D) based on Planning’s subjective observations which are counter to the lived experience of neighbours.

Thank you for taking the time to consider the five requests listed above. The impact of AC’s on our household, our neighbours, our neighbourhood and our Town are significant. The character of our neighbourhood has been one of respect and co-operation. I’m hopeful that this will continue once a resolution to this situation has been reached.

Gaye Harden

Dear Sir/Madam Chair

Sept 1, 2023

**Re: Request for Deferral
Development Permit PL20230120
Air Conditioning Unit with a Side Yard Setback**

Address 630 1st Street
Legal Description Lot 23 Block 77 Plan 9910432
Appeal Matter Against a Refusal by the Development Officer

To the Town of Canmore Municipal Clerk, municipal.clerk@canmore.ca, and to the SDAB

We are kindly requesting the SDAB defer the Subdivision and Development Appeal Board Hearing PL20230120 until October 2023, or thereafter.

Upon receipt of notification of the second hearing PL20230120, we made a written request for a deferral to Cheryle Hyde, the Town of Canmore (ToC) Municipal Clerk. We were told that a deferral could not be granted prior to the second hearing. We were advised that we needed to submit a deferral request to the SDAB and that this could only be approved by the SDAB at, and at the time of, the second hearing. We further understand "The SDAB hearing is for the Appellant and affected parties to provide the Board with information to the appeal. **The Board must base its decision on planning merits.** Affected persons will be given an opportunity to speak."

We are requesting the second hearing be deferred for the following reasons:

1. Being adjacent property owners at 628 1st Street and persons affected by the air conditioning unit at 630 1st Street, we are unable to attend the hearing due to being out of the country. The requirement for a second hearing was unexpected given the completion of the first hearing on June 23rd, 2023 - there was no indication at the time of the first hearing that another hearing would be required, and no reason to anticipate a schedule conflict that would prevent us from attending a second hearing in person.
2. We will not have internet connectivity amenities in our location, nor will we be in a time zone that is suitable for attending the second hearing. If we were able to access the required amenities, at our expense, we have been advised by the ToC Municipal Clerk that Zoom can be unreliable and problematic so even if we could dial in there is no guarantee the technology will work.
3. The deadline for submissions for the agenda package is Sept 1st which closes on the Labour Day long weekend. Because of the long weekend, Cheryl Hyde hopes to email the agenda package to the SDAB and appellant by the evening of Sept 4th but to do so would have to work through the long weekend. In addition, Cheryl is not required to email the agenda package to us so the absolute soonest we could expect to see it would be the evening of Sept 4th. Theoretically it would be Sept 5th before we could visit the website and download the package which is 2 days before the hearing on Sept 7th. This is obviously not fair and does not provide

adequate time to review the materials before the hearing and for this reason we request the hearing should be deferred.

4. The decision on the first hearing was not provided by the SDAB within the 15-day timeline prescribed in the public procedure. The Procedure for Subdivision & Development Appeal Board Hearing states that *"the Board will provide a written decision within 15 days following this hearing."* Could you kindly please explain why this happened and why we were not advised. The SDAB did not provide this decision on time and a relevant by-law has now been changed and we are therefore requesting the hearing be deferred to further understand the change in this bylaw and how it will impact us. In addition, the way we found out about the bylaw change was not in writing, but by a phone call from a Town Bylaw Officer who indicated that there was a change to the bylaw and it would no longer be applicable in the hearing. We now fear that we are no longer protected by the noise related bylaw. But for lack of time and due to difficulty obtaining information from the Town we have not been able to access information on this bylaw and the change that was made to it.

We do not understand why our previous oral submissions will not be recognized in the next hearing but we refer to our written submissions, provided in 10 copies at the first hearing, to evidence how material the noise bylaw is and to what extent it was discussed. With the change to the bylaw since the first hearing, we fear we are no longer protected against noise in the second hearing. This materially changes the context of the second hearing compared to the first hearing which leaves us exposed with no recourse and unless deferred, no possibility of attending the second hearing.

5. A deferral to October will
 - give us the opportunity to speak to the issues and participate in the second hearing in person,
 - allow sufficient time to read and evaluate the agenda materials in advance of the hearing,
 - give us an opportunity to address the change to the Community Standards Bylaw noise-related bylaw in relation to this situation.

Conclusion

We kindly request a deferral of the meeting.

Thank you for your consideration,
Andrea Jung / David Burghardt

Dear Sir/Madam Chair

Sept 1, 2023

Re: Development Permit PL20230120
Air Conditioning Unit with a Side Yard Setback
Address 630 1st Street
Legal Description Lot 23 Block 77 Plan 9910432
Appeal Matter Against a Refusal by the Development Officer

This letter is a statement of impact regarding the SDAB hearing of PL20230120. We are adjacent property owners and persons affected by the installation and noise disturbance of the air conditioning unit ("A/C") at 630 1st Street, Lot 23 Block 77 Plan 9910432. Our original individual statements of impact (10 copies provided at the hearing) for the June 23, 2023 hearing are dated June 23, 2023 and should be read in conjunction with this statement.

Introduction

We have no objection to ac units. We support that residents should have access to cool, clean air for themselves in their homes. The location of the ac unit and the significant impact on neighbours are the primary issues under discussion.

Planning Merits

Municipal land use bylaws play a crucial role in shaping the physical, social, and economic aspects of a community, contributing to its overall quality of life and sustainability for **all residents** in the community.

1. Relocation of AC unit

It is requested the appellant relocate the ac unit to the front or rear yard area identified by the ToC Planning Department (see Figure 1 below) as suitable and acceptable and agreed to by both directly offsetting neighbours. This recommendation would positively impact both the appellant and the offsetting neighbours by eliminating any side yard obstruction and ac noise. Since the applicant deliberately installed the ac unit in a noncompliant location, he accepted the risk that it may cost him to move it therefore the cost should be irrelevant in the SDAB decision process.

We would also point out that at the very beginning of this issue, the appellant threatened if they were forced to move the ac unit that we "may be less happy". They would not elaborate on what they meant so we could only surmise they were referring to their middle level (ie 2nd floor) BBQ deck that directly faces the side yard and our home. The appellant's architect (Russell and Russell Design Studios) recognized the middle level BBQ deck as a "far worse location for an AC unit and the noise that might be heard from the neighbouring properties". The appellant knew that the installation of the ac unit was in contravention of the bylaw. They are not open to the front and rear yard locations identified by the ToC as suitable. It is our view that installing the ac unit on the second floor bbq deck would be vexatious and spiteful and we urge the SDAB to address this in its decision.

The installation of the ac unit in the side yard favours only the appellant and causes significant impact on three dwellings. How can the appellant, who knowingly contravened the bylaws, be granted the authority to negatively affect three other dwellings. How does this reflect the principal of having bylaws intended to protect and serve all the residents of the community?

Relocating the ac unit to a front or rear yard location has

- no impact on the appellant but has significant positive impact on the neighbouring residents,
- aligns with the planning principle that the bylaws serve the residents of the community and not the special interests of one resident.

2. ToC Planning Department

We disagree with the following comments by ToC Development Officer, Eric Bjorge (“DO”) as per page 51 of the June 23rd, 2023 hearing agenda materials; “The Planning Departments opinion is that the location of the unit is not the primary reason for the noise issues being caused. There is the possibility that relocating the unit may have the potential to reduce the impact to the properties which have raised concerns, but it may also just move the problem to another area thus impacting different residents. The visual screening in place is sufficient to meet the intent of the screening requirements in the LUB.”

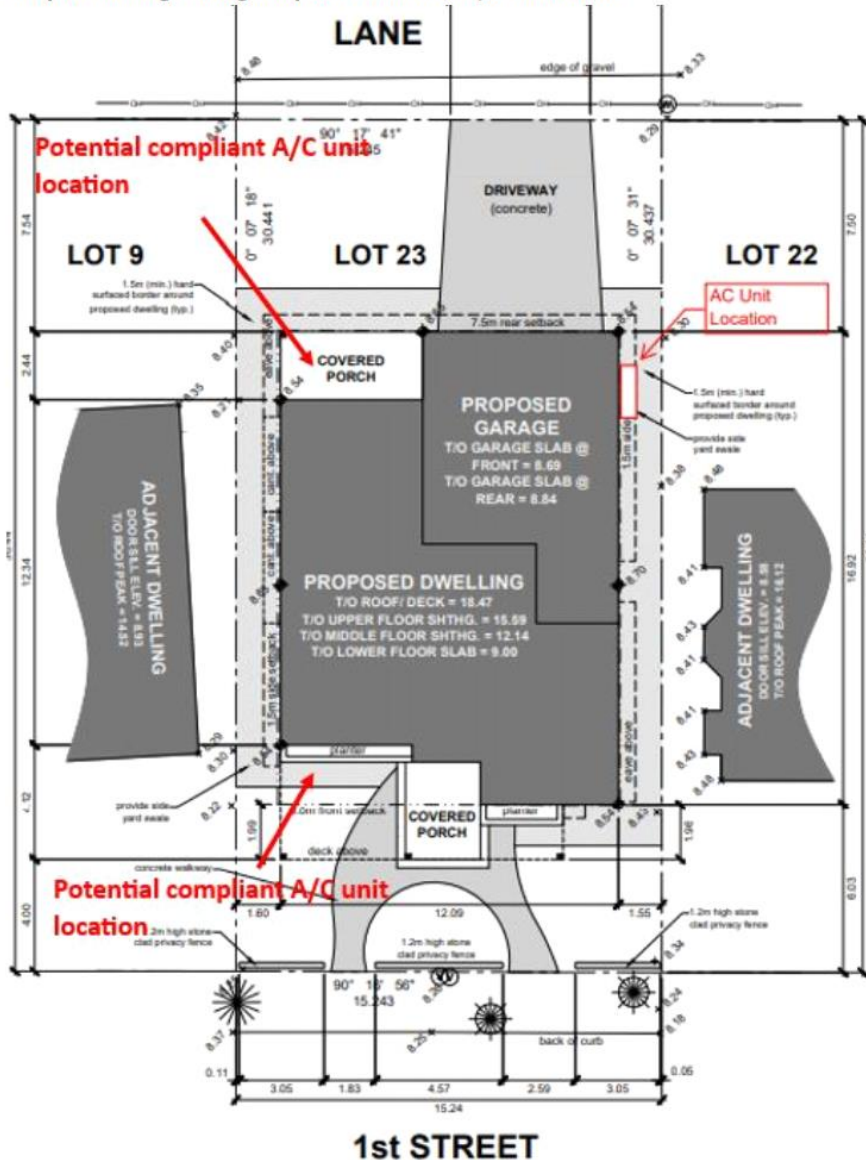
On the contrary, the location is the primary reason for the noise issues and significant impacts on neighbours. At the present location the ac unit is running at approximately 77 dB. If the ac unit was moved to the front or rear yard there would be exponentially less noise and impact on neighbours. Relocating the ac unit to a ToC recommended location, as per Figure 1 below, will not move the problem to another area because the front and rear yard neighboring homes are ~27 meters and ~30 meters respectively away from the recommended ac unit location. The sound levels for the front yard neighbour would measure 46 dB and the rear yard neighbour 45 dB which is essentially daily background noise in a residential neighbourhood. This is hardly “moving the problem to another area” and we are puzzled why the ToC would infer that it is. In addition, the fence may offer visual screening but it serves to reverberate the noise between the building and exacerbate the noise issue.

The recommendation made by the ToC above is illogical, incomplete, and confused the June 23rd hearing. In fact, a SDAB board member asked how he (Eric Bjorge) could “decouple noise from its source”. It also caused two affected parties to request the DO’s recommendation be stricken from the appeal hearing because of his inability to properly explain the issue at hand.

Moreover, the DO suggested “there is insufficient evidence that it would be unreasonable to relocate the unit to a compliant location”. If this is the case, why did the DOC recommend the ac unit not be relocated? This is baffling – would it not be fair to serve the best interest of the residents of the community rather than a single resident who contravened a land use bylaw to benefit only themselves? What is even more puzzling is that moving the ac unit would have NO impact on the appellant and significantly reduce the impact on the offsetting neighbours but yet the DO recommended approving the variance!

With regards to emergency access the appellant has advised that a fence will be installed on the side yard property between our home and the appellant's. The estimate of 0.9m of available space in the side yard does not account for a fence on his property. The estimate is more likely to be 0.7m of available space for side yard access – this reduces the side yard setback by 53%. Compared to the 10% allowable for the development authority we believe that an obstruction of 53% is egregious and is contrary to the intent of the bylaw to allow minor discretionary judgement.

Figure 1 – Site plan showing existing and potential locations for an A/C unit



Conclusion

The ac unit located at 630 1st Street contravenes Section 2.4.3.1 of the Land Use Bylaw, was installed after final inspection of the new house and exceeds the maximum nighttime noise level of the Community Standard Bylaw of 60dBA that was in place during the June 23, 2023 hearing. Since then a change was made to the bylaw that does not allow noise to be considered in the September 7 hearing.

Despite all these facts, plus objections by many neighbours, the Town of Canmore Planning Department recommended that a variance request be permitted (ie the ac unit be allowed to stay in place). This recommendation was made during the June 23, 2023 SDAB hearing and based on this experience we have concluded affected neighbours are essentially defenseless. How does the recommendation by the ToC Planning Department align with the Municipal Development Plan and the Municipal Government Act that are in place to protect all residents and not favour a single resident.

If our request for deferral of the September 7, 2023 hearing is declined, in the absence of adequate information and our inability to attend the hearing in person, we would urge the SDAB to recommend:

- the ac unit be relocated to the front or rear yard of the appellant's property,
- the ac unit horizontal blower is directed to blow into the alley or the front street and not at side yard setbacks,
- the ac unit not be installed on the 2nd floor deck facing the side yard.

These recommendations would

- not unduly interfere with the amenities of the neighbourhood,
- not materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
- conform with the use prescribed for that land or building in the land use bylaw.

Thank you for your consideration,
Andrea Jung / David Burghardt

Appendix A – Additional Information

To mitigate the impact of noise, we suggest ac units should be allowed in front and rear yards but not in side yards for the following reasons:

- Side yard space between homes is minimal (ie typical 3 meters between homes) with hard surfaces that create an echo chamber between homes. Horizontal blowing ac units direct noise into a neighbour's yard so adding a fence between neighbouring homes in an "attempt to confine the noise" is fruitless as a fence only redirects the noise between the houses. It will not dampen the noise and only serves to cause further reverberation and echo the noise between buildings. Fixing a noise reducing blanket around the horizontal blowing ac unit offers minimal noise reduction of up to 5 dB. Vertical blowing ac units do not direct the noise into the neighbour's yard but direct it vertically. This offers an improvement over the horizontal blowing ac units but its effectiveness is reduced as the eaves cause the noise to deflect back into the side yard space and the noise impact remains.
- Installing a horizontal blowing ac unit in the front or rear yard directs the noise into the yard of the homeowner that owns the ac unit, and beyond, either into the back alley or street. In this scenario a vertical blowing ac unit will direct the noise vertically with the absolute least amount of impact on offsetting neighbours. The distance between homes across the street or alley is in the order of 27 meters and 30 meters, respectively. Obviously, the sound impact on a neighbour 27 to 30 meters away will be dramatically less than on a neighbour 3 meters away. In addition, for horizontal blowing ac units the fence now acts as a positive sound barrier because it deflects the sound into the front or rear yard and contains the sound in the property of the homeowner that is running the ac unit. This is a common practise for noise control on freeways that run through residential areas in a city. Vertically blowing units direct noise vertically with the absolute minimal amount of noise impact on a neighbour.
- The inverse square law is a fundamental principle in physics and mathematics that describes how the intensity or strength of a physical quantity decreases with the square of the distance from its source. This law is applicable to a wide range of phenomena, including sound, light, gravitational and electric fields, and radiation.

The following graph shows how sound and distance are related for two scenarios

1. Side yard ac unit running at 75 dB
The sound measured at the neighbouring home 2 meters away is 69 dB.
2. Rear yard ac unit running at 75 dB
The sound measured at the neighbouring home 30 meters away is 45 dB.



Front and rear yard ac unit installations also have other positive impacts such as managing issues related to:

- Emergency Access - the side yards remain completely unobstructed allowing for full side yard access.
- Privacy - no need to screen the ac unit with a side yard fence and landscaping and permits homeowners to create privacy features as they wish.
- Fire Separation - there is no concern with fire separation between buildings.
- ToC Administration - it would reduce resources required from the SDAB, Planning Department, Municipal Enforcement and Protective Services departments to investigate and address side yard ac unit installations. It would also grant the SDAB and Planning Department more flexibility for front and rear yard variance requests for ac unit installations as the impact is primarily to the applicant – the applicant (not the defenseless offsetting side yard neighbours) lives with the noise and screening requirements.

Dear Sir/Madam Chair

June 23, 2023

**Re: Development Permit PL20230120
Air Conditioning Unit with a Side Yard Setback**
Address 630 1st Street
Legal Description Lot 23 Block 77 Plan 9910432
Appeal Matter Against a Refusal by the Development Officer

This letter is a statement of impact regarding the SDAB hearing of PL20230120. We are adjacent property owners and persons affected by the installation and noise disturbance of the air conditioning unit ("A/C") at 630 1st Street, Lot 23 Block 77 Plan 9910432.

Thank you for the opportunity to describe the significant impacts this A/C has on us, our household and our neighbourhood.

The A/C installed at 630 1st Street has materially impacted the quiet enjoyment of our home, both indoors and outdoors, both day and night. The first time we heard the A/C, in July 2022, was on our front curb one early afternoon. Our front yard, characteristically quiescent with natural ambient sounds of a tranquil neighbourhood (wind, leaves, birds, sometimes cyclists or pedestrians and maybe the occasional car), was overwhelmed by a low, vibrating, rumbling HVAC-type noise. This is the kind of noise that when it ceases, the silence that engulfs you makes you realize how loud it is. When we learned that it was our new neighbour's air conditioner, we were stressed. Later, when we discovered that the A/C is not compliant with the Land Use Bylaw, frustration and disbelief settled in. And then, loss, with the knowledge that our haven of peace was being disturbed by a non-compliant air conditioner.

In the following days, we hosted 3 different groups of summer visitors who typically stay in the ground floor bedroom nearest the A/C. The A/C noise negatively impacted the sleep experiences of all 3 groups. Its noise level and intermittent on/off cycles disrupt sleep, even with new, triple pane windows closed. The iPhone sound level meter reads 68 dBA at this bedroom window (when open). Please note that this is not a Type 2 sound level meter as prescribed by the Community Standards Bylaw and is for indicative purposes. We are still awaiting sound measurements by Town authorities who are aware of this problem. But for reference, Canmore's nighttime Community Standards Bylaw noise threshold after 10 pm is 60 dBA at the property line.

Our back yard is directly adjacent to the A/C unit which, at the property line, measures up to 77 dBA. This detrimentally impacts our use and enjoyment of the back yard. Moreover, the fence which separates the two dwellings redirects and exacerbates the sound due to reverberation, amplification, and echo between the buildings. The position of the A/C projects the noise directly upon our home making it audible from every room in the dwelling. I would ask the Chair or anyone present to ask yourself what impact would this have on you and your household from May to October?

As a result of the A/C we now keep all windows on that side of our house closed day and night to reduce noise impact. These windows, and the bedroom window on the north (back) of the house once ensured ventilation and cooling of our main floor and bedroom. The iPhone sound level meter at the north bedroom window also reads 68 dBA when open. Even with this window closed, the continual on/off cycle and rumble / vibration disrupt our sleep patterns with no respite when run through the night. **According to the manufacturer, this KeepRite NH4A4 A/C has a minimum noise level of 66 dBA which would indicate that at its current position, it will never comply with the nighttime level prescribed in the Community Standard Bylaws.**

Even from our front deck, despite being on the opposite end of the lot from the A/C, the noise levels measure up to 65 dBA and resonate across the front outdoor living space. This is of significant impact every time the unit comes on.

Prior to engaging in this public process, we approached our new neighbours in person. We quickly took action to express our concern, emphasizing our wish to build positive neighbour relationships. We requested they move the unit to a location that would comply with Land Use Bylaw standards and mitigate acoustic impact. We also requested that the unit be shut off after 10pm to respect the ToC's Community Standard Bylaws and eliminate the nighttime noise disruption. The fact that we are here today speaks to the neighbour's response to these requests.

Further to this and before closing, I would also like to comment on the appellant's submissions, specifically their "Appendix A: Chronology of discussions and resolution actions with neighbours" on pages 23 and 24. This chronology provides key information that we regard as incomplete, taken out of context or incorrect and that would imply or suggest we engaged in discussions in bad faith or with a disingenuous intent.

We prefer to share the actual content of our communications without interpretation or bias to allow the SDAB to build a balanced view of the interactions. The below **Appendix 1** contains a Chronology of Events and Chronology of Text Messages in their entirety. Besides an incidental and brief encounter of August 15 and our meeting of August 22 this is the only contact we have had with them.

Notwithstanding the appellant's submissions, the installation of the A/C contravening the ToC Land Use Bylaws and Community Standards has upset our quiet enjoyment and the tranquility and character of the neighbourhood and community. Its placement threatens the integrity of the Town, its standards, and bylaws. Town regulations exist to preserve and protect the community and we sincerely hope and respectfully request that the A/C be moved to a compliant location and until that time, the A/C be shut off from 10pm to 7am in conformance with the Community Standards Bylaws.

Thank you very much for your consideration.

Andrea Jung
Owner
628 1st Street

**Appendix 1
Chronology of Events**

July 29	Return from back country; 1 st occasion to see and hear A/C operating
July 30-31	Visitors/Adams (see Impact Statement)
Aug 2	Initial contact re: A/C with Planning Department Town of Canmore (ToC)
Aug 5-7	Visitors/Adams (see Impact Statement)
Aug 5-10	Request for appellant to relocate their SUV; see photos white SUV below
Aug 10	Text to appellant requesting meeting; declined
Aug 13,14,15	Visitors/Burghardt (see Impact Statement)
Aug 15	Coincidental back-alley encounter & request for in person meeting
Aug 22	1 st discussion with appellant regarding A/C
Aug 30	Text saying thanks for chat; A/C technician on vacation
Sept 24	Text checking in; builder on vacation
Oct 16	Text checking in; no response
Oct 17	Text checking in; no update (reply not inviting further contact)
Oct 20	626 1 st Street neighbour discussion with appellant on river path
Dec 11	Drop off card at 630 1 st Street

Chronology of Text Messages (replicated in their entirety)

Please note the initial text was sent to the appellant as their car had not moved for 5 consecutive days obstructing our walk way and forcing us and our visitors to park in front of other neighbours. We were very puzzled by this considering no other vehicles were parked on either side of 1st Street for any of those 5 days. We feel that the ask was reasonable particularly in light of the fact that they have a two car garage.



Wed Aug 10, 2022

- A (with photo of car in front of house) Hi Leah, I'm pretty sure this is your car (?) May you please kindly move it from in front of our place? Thank you very much. Did not know which number to use so you may get this twice... 🌐
- L Sure, thx for the reminder. We had to move the cars last week to make room for Dave L's demolition crew and I forgot to move it back More crews coming today and Friday though so there will be more moving of vehicles
- A Thanks so much Hopefully there's plenty of street front you can use that's not in front of our house ❤️ David's up tonight so we may try and pop by if you're around and it's not too late (?)
- L We both have work deadlines tomorrow am so will likely be working this evening, so let's try for another time!
- A Ok, sounds good. Good luck with that.

Tues Aug 30, 2022

- A Good morning Leah, thanks again for the chat last weekend. Any luck with your builder on Friday? Talk soon, Andrea
- L Hi Andrea. His A/C person is on vacation but will look into things when he's back next week.

Sat Sept 24, 2022

- A Hi Leah, hope you had a nice vacation. Any news on the AC?
- L Hi Andrea. Our builder did talk to his AC folks but then we were away and now our builder is away on vacation. So more info still to come.

Sun Oct 16, 2022

- A Hi Leah, just checking in for anything you may have in mind. We'll be around later this afternoon if you want to chat. Have a good day.

Mon Oct 17, 2022

- A Hi again! We ended up leaving pretty quickly so didn't get a chance to circle back. Would you be free for a call tonight or later this week?
- L We will let you know when if/when we have anything more to share. No need to remind us. No news is just that - no news yet!
We both have an incredibly busy week and in fact I am still working now at 11 pm - since 8 am.

A- Andrea Jung, 628 1st Street

L – Leah Lechelt, appellant

Aug 31, 2023

Town of Canmore
Subdivision Development Appeals Board (SDAB)
RE: SDAB hearing Sept.7, 2023 Development Permit PL20230120 Statement of Impact Lougheed

Dear Members of the SDAB,

I respectfully submit this letter in opposition of the application for a minor variance for the air conditioner at 630 1st Street. My main points to the opposition were submitted in the first hearing which was re-scheduled. I have been informed that these will be automatically re-submitted. As a result, I will not re-state them here at length but highlight my main points of opposition for your consideration. In addition, I would support the request for the hearing to be postponed again so that those neighbours who have been negatively impacted are able to attend.

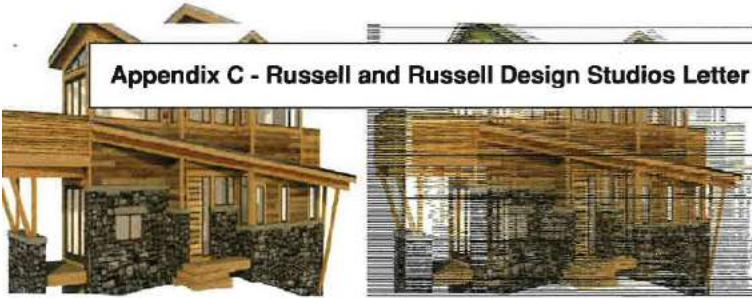
My 3 main reasons to reject the application for a minor variance are:

- 1) The owners of 630 1st Street knowingly installed the unit in the side yard setback without permission. This is highlighted in the letter from Russell & Russel Design to the town on May 26, 2023 in support of their application where they write in paragraph 4: "The Lechelt's have placed their AC Unit within the side yard setback and were informed that this was acceptable as long as there were not noise complaints from neighbours." I have included this letter for you below.
- 2) Immediately after the AC was installed there were noise complaints form neighbours. The noise generated from the AC Unit continues to have a negative impact on the neighbours and community. As a result, I would suggest that the location is not acceptable and the application for a minor variance should be rejected.
- 3) Supporting an application for a minor variance where the applicants knowingly contravened the by-law for the side yard setbacks and are asking for permission after the fact does not reflect good governance and challenges the established process. The applicants were aware of the need for a variance and installed the unit without an approval on the hope that there would not be complaints form neighbours.

In addition to the 3 reasons above I also support the position and comments submitted by our immediate neighbours Gaye Harden and Dave Burghardt and Andrea Jung.

Thank you for your consideration.
Dave Lougheed

Appendix C - Russell and Russell Design Studios Letter



russell
and
russell
design studios

#200 817 main street
canmore alberta t1w 2b3
info@russellandrussell.ca
403 678 3003

re

AC Unit Review

630 1st St, Canmore

Friday, 26 May 2023

Provided to: Leah and Ron Lechelt

To Whom it May Concern,

It has come to our attention that the Ron and Leah Lechelt have been asked to relocated their AC unit to meet the LUB and new noise bylaws.

Background - The lots north of 1st Street are 10m shorter than a standard Town lot. These lots were altered to provide a lane which was not included at time of subdivision.

This 25% reduction in length has not been considered or compensated in the LUB therefore, the entire 10m reduction is taken out of the building envelope not the setbacks. A standard 40m deep lot has a building envelope depth of 26.5m where-as the Lechelt's lot has a building envelope depth of 16.92m. This represents a reduction in envelope depth of 40%. The consequences of reducing the envelope depth without adjusting any setbacks has created lots that are equally expensive but significantly smaller than intended to accommodate standard Canmore homes.

Due to the reduced building envelope, homes on these lots typically utilise the full building envelope and maximum site coverage. The Lechelt's have placed their AC unit within the sideyard setbacks and were informed that this was acceptable unless there were noise complaints from neighbours.

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Yours truly,

Alasdair Russell B. Des. (hons), M. Des.

Dear Sir/Madam Chair

June 23, 2023

**Re: Development Permit PL20230120
Air Conditioning Unit with a Side Yard Setback**
Address 630 1st Street
Legal Description Lot 23 Block 77 Plan 9910432
Appeal Matter Against a Refusal by the Development Officer

This letter is a statement of impact regarding the SDAB hearing of PL20230120.

We are submitting this statement of impact as we are adjacent property owners to the applicants and are being directly and negatively impacted by the installation of the air conditioning unit at 630 1st Street (Lot 23 Block 77 Plan 9910432). We object to the request for a variance.

There are 3 main reasons for our objection to the request for a variance which are:

- 1) The deliberate installation of the existing unit in contravention of town by-laws and clear disregard of the planning permit process.
- 2) The demonstrated violation of town noise by-laws through the operation of the unit during the past 11 months.
- 3) The significant negative impact on ourselves, our immediate neighbours and our surrounding neighbours and community.

As most are aware, the unit has already been installed and the applicants are asking for an exception to keep, rather than install the unit. Importantly, the applicants built their home and had the air-conditioning unit installed after their final inspection. They did not apply for a variance ahead of installing the unit demonstrating a clear disregard for the planning application process.

The town's by-laws with regard to side yard set backs and variances are clear and known to owners, builders, and trades who installed the unit. The existing by-laws which govern the side-yard setbacks were knowingly violated and did not respect, or follow the towns established process for variance applications.

We would suggest that granting approval for a variance for a unit that has knowingly been installed in violation of current by-laws puts at risk the integrity of the current and established process. We believe it would send a signal to the community that the process to follow when building in the town is to do first, then ask permission. We do not feel this is the intent or spirit of the current and established process or best interests of the town and community.

Our second and significant reason for objection is the demonstrated significant noise and vibration that the unit creates. The noise generated by the unit exceeds the minimum noise level of 60 dBA set by the town and it is our understanding according to the manufacturer that the minimum noise the unit would generate is 66 dBA. Please see attached picture of specifications. Clearly a unit with a minimum noise level in excess of the town's bylaws is not a suitable unit for the community. As a result the unit should not and would not be allowed to be installed in the town and therefore should be removed.

Our final and equally important reason for our objection to the variance application is the significant negative impact the unit is having on the enjoyment of our community by ourselves and our neighbours. We have owned a home in Canmore since 2010 and it is now our primary residence. We first became aware of the installation of the air-conditioning unit when we were contacted by our neighbours who own 626 1st Street in July of 2022. At that time we were out of the province. They informed us that there had been an installation of an air-conditioning unit which was creating significant noise and disruption during the day and also in the evening and throughout the night. The noise was impacting their ability to sleep and daily enjoyment of the area. We have since experienced the noise and disruption that the unit generates on numerous occasions. It is significant and we have measured in in excess of 70 dBA at the property line. The unit, having already been installed but without approval from the town is currently a permanent feature of our neighbourhood and community. It is disruptive and materially impacts the enjoyment of the neighbourhood and community for ourselves, our neighbours and our guests.

As a result of the demonstrated and documented noise by the unit that exceeds town by-laws, the deliberate installation of the unit by contravening the process for variance and the significant and material negative impact the unit is having on our ability to enjoy our community we strongly oppose the application for a variance and respectfully ask that the Standards Development and Appeal Board reject the application.

We are happy to answer and address any questions you may have.

Best Regards,

Dave & Dana Lougheed
Owners
634 1st Street
Canmore, AB



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NH4A4

Performance 14 Compact Central Air Conditioner

Keep the peace with quiet performance as low as 66 decibels with this compact central air conditioner that's great for multi-family housing. Its stackable design has an efficient "pass through" airflow design. Built to last, it features a weather-resistant cabinet and a tight wire protective guard.



Features & Benefits

- Quiet performance (as low as 66 decibels)*
- Single-stage compressor operation
- Durably built to withstand bad weather and debris
- Designed for corrosion resistance and lasting performance
- 10-Year Parts Limited Warranty*



SDAB Hearing

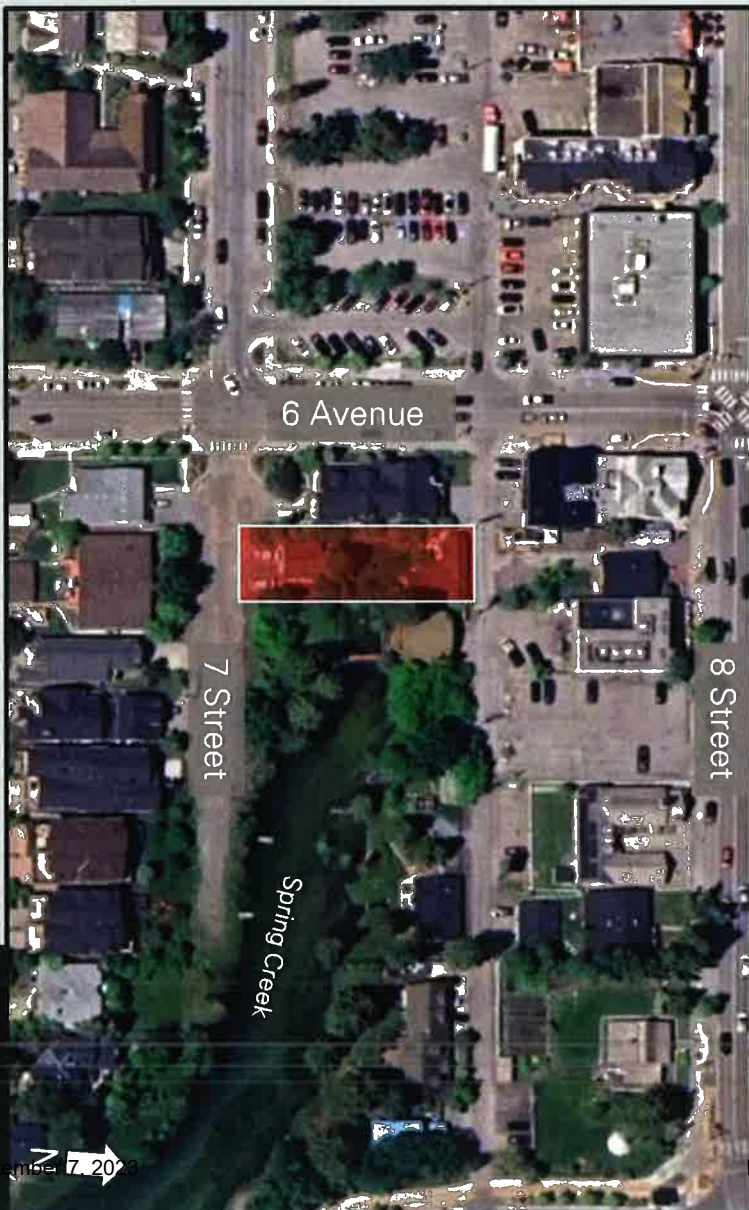
June 23, 2023

634 7th Street, Canmore
Lot 9, Block 71, Plan 1095F

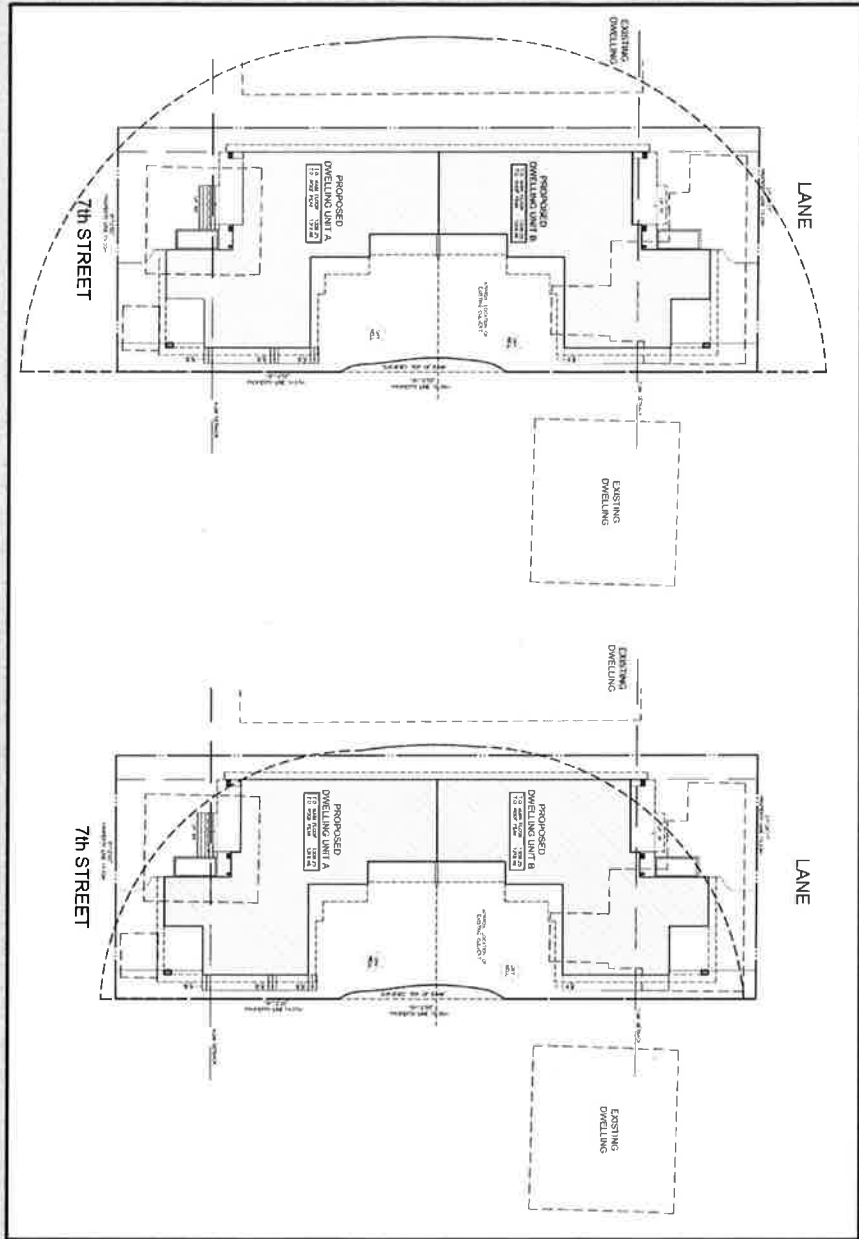


SITE CONTEXT

- Land Use District: R2A
- Existing single family dwelling with 2 accessory buildings
- Standard 50' x 120' rectangular site
- Considered within walking distance to core amenities
- 1m of slope from North to South
- Current grading produces storm runoff into creek, multiple low areas in centre of site
- East and West neighbouring developments relatively new, evident disruption to creek bank



TOP OF BANK SETBACK



PROJECT STATISTICS

- Proposed duplex dwelling
- ADU provided in each dwelling
- Net increase of 3 dwelling units, 2 affordable
- 1:100 elevation conforming
- Increased setbacks from existing dwelling and accessory building
- 42.8% site coverage
- Increased stormwater retention from existing
- Improved site grading
- Sightline considerations for neighbouring properties



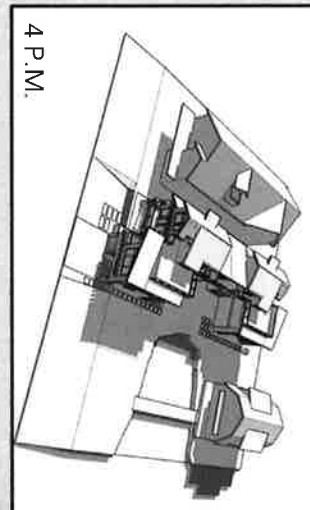
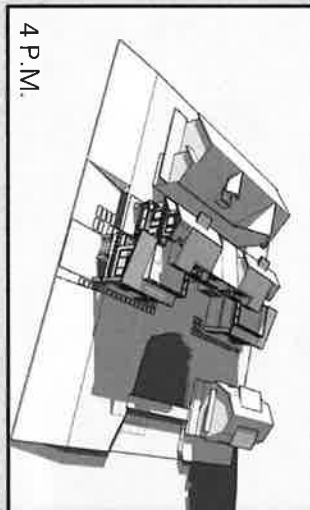
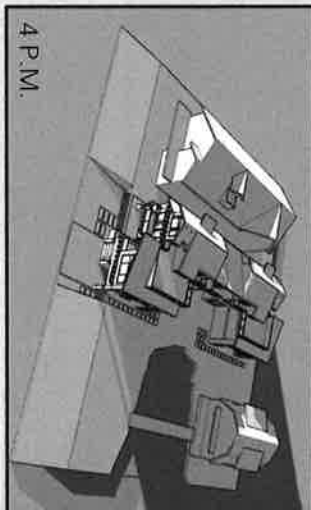
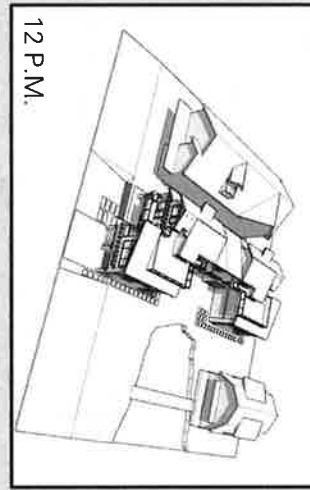
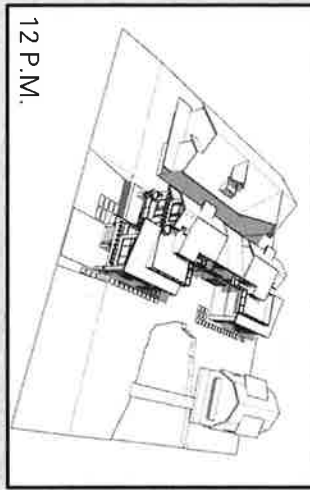
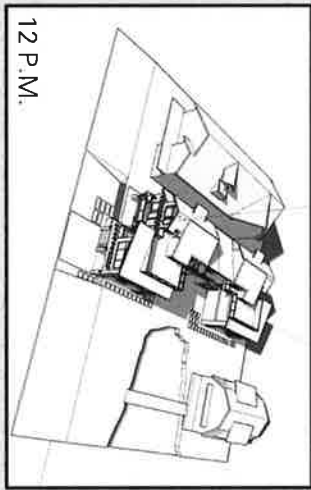
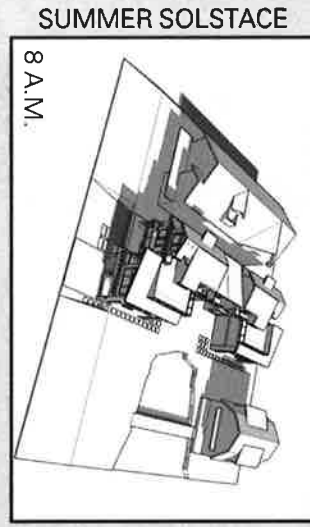
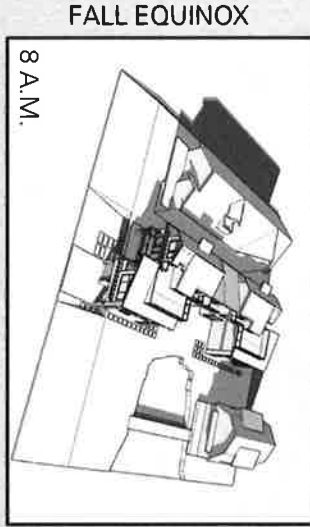
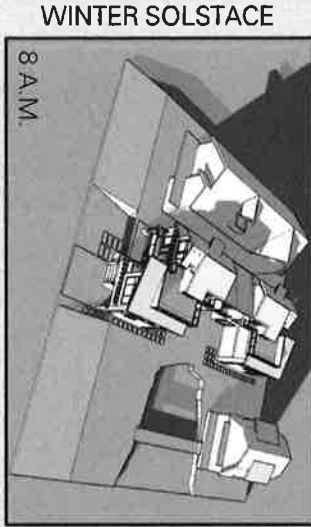
DESIGN CONCEPT

- Mountain Contemporary
- Natural Materials
- High facade articulation
- Contextually appropriate



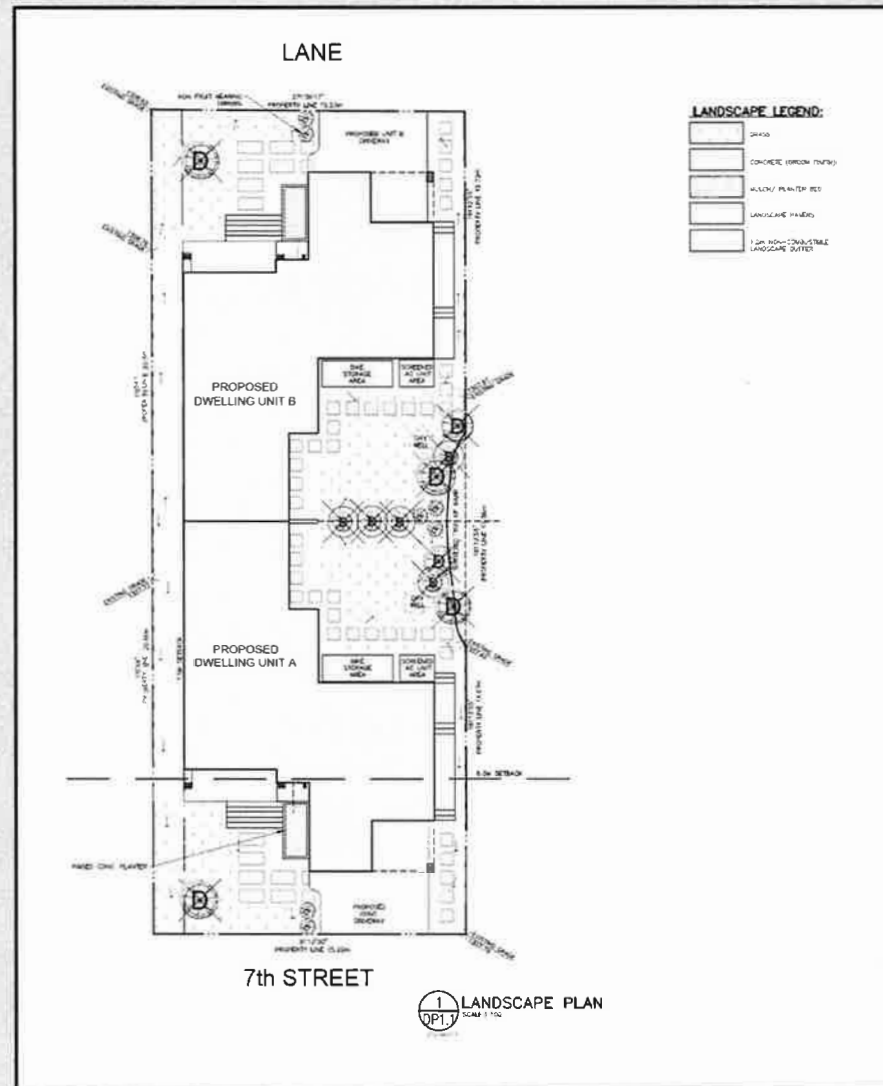
- Sightline consideration
- "low" side profile
- Discreet ADU access

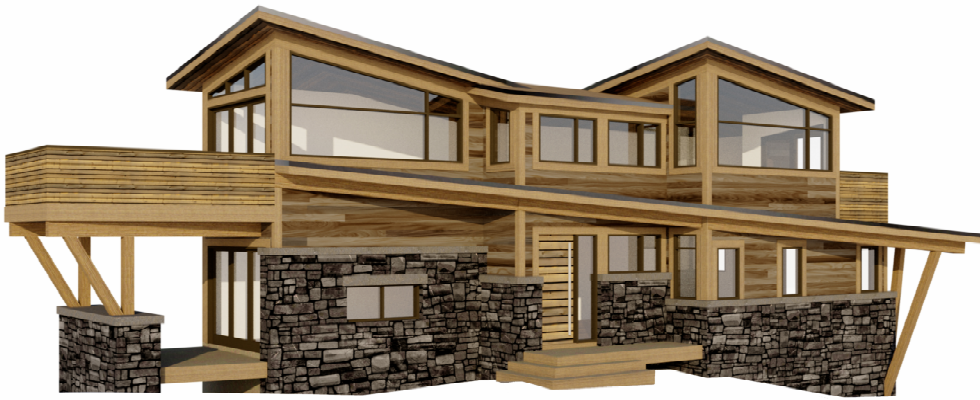
SHADOW ANALYSIS



ENVIRONMENTAL IMPACT

- Existing site has low point, stormwater draining into creek basin.
- Proposed project to utilize screw pile/ grade beam foundation
- 2 large spruce trees to be removed, replaced with more vegetation
- Proposed grading retains water on site, dry wells utilized
- Increased leaf drop projected with proposed landscaping
- Integrity of retaining wall to be maintained
- ESC Plan in place
- Damage to banks occurred prior to setback bylaw; no additional proposed.





re

AC Unit Review

630 1st St, Canmore

Wednesday, 21 June 2023

Provided to: Leah and Ron Lechelt

To Whom it May Concern,

It has come to our attention that the Ron and Leah Lechelt have been asked to relocate their AC unit to meet the LUB and new noise bylaws.

Background - The lots north of 1st Street are 10m shorter than a standard Town lot. These lots were altered to provide a lane which was not included at time of subdivision.

This 25% reduction in length has not been considered or compensated in the LUB therefore, the entire 10m reduction is taken out of the building envelope not the setbacks. A standard 40m deep lot has a building envelope depth of 26.5m where-as the Lechelt's lot has a building envelope depth of 16.92m. This represents a reduction in envelope depth of 40%. The consequences of reducing the envelope depth without adjusting any setbacks has created lots that are equally expensive but significantly smaller than intended to accommodate standard Canmore homes and their AC units.

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While Ron and Leah would like to find a solution that helped reduce the noise there is very little opportunity at grade and they are currently considering the middle level BBQ deck. This is a far worse location for an AC unit and the noise that might be heard from the neighbouring properties, we would like to avoid this.

A roof top location was also considered however it is too far from the mechanical room to function. The current location is the optimum location for noise attenuation. Providing a variance to allow AC units to be placed in a rear setback rather than a side setback would allow the AC units to be placed slightly further away and provide a potential reduction in noise. It is also noted that garages, sheds and hot tubs can all occupy this space without variances.

Yours truly,

Alasdair Russell B. Des. (hons), M. Des.

for **russell and russell design studios**