TO: Board of Adjustment
FROM: Ben Shumaker, Planning Director
DATE: April 21st, 2014
SUBJECT: Appeal of Decision on Rooftop Mechanical Equipment (APL2014-01)

Introduction
The Stevenson Board of Adjustment is asked to review and decide upon an appeal of the Zoning Administrator’s decision requiring a 15 foot setback for rooftop mechanical equipment as proposed in BLD2014-006 (Attachment 4).

Staff has addressed below the issues brought up in the appellant’s letter of appeal to provide the Board with the rationale of the denial and drafted a potential decision on the appeal (Attachment 1).

Stipulated Facts
PROJECT: Columbia Hardware Rooftop Mechanical Unit

SUMMARY OF PROPOSED ACTION: Applicant seeks to remove and replace rooftop packaged unit and reconnect duct and gas lines. The location of the existing unit is 13’ from the south roof edge and approximately 2’ from the west roof edge. The proposed new unit asks to use the same location. The proposal was administratively denied on March 25th, 2014 (Attachment 3). The denial was appealed by the applicant on March 25th, 2014 (Attachment 2) and is currently under review by the Board of Adjustment.

GENERAL INFORMATION:

Owner: Dennis & Judy Wiebe
PO Box 834
Stevenson, WA 98648

Applicant: Clawson Heating & Air Conditioning
PO Box 899
Gresham, OR 97030

Appellant: Greg Wiebe, Columbia Hardware, Inc.
24 NE Second Street
PO Box 398
Stevenson, WA 98648

Tax Parcel Number: 03-75-36-3-3-0300-00

Address: 24 NE Second Street

Zoning: C1 Commercial

Comprehensive Plan: HIT High Intensity Trade

Designation
Lot Size: ~0.59 Acres

BACKGROUND: The Applicant submitted an incomplete application via email on February 20th, 2014. Additional pieces of information were submitted over the next weeks, and the application was deemed complete on March 21st, 2014.

The administrative decision denying the permit request was issued on March 25th, 2014 citing 1) deficiencies in the proposal’s compliance with section 17.28.040(M) of the Stevenson Municipal Code (SMC) and 2) the inapplicability of SMC 17.44’s provisions allowing continuation of lawfully nonconforming uses.

An appeal was filed in a timely manner on March 25th, 2014 by Greg Wiebe of Columbia Hardware, Inc. and raised the following points:

Disputed Facts

SMC 17.44.010 Policy

Regulation: “In the interests of safety, health and general welfare of the city, uses either:
A. Conforming to relevant zoning regulations in effect immediately before adoption of the ordinance codified in this title but not conforming to the requirements of this title upon such adoption of; or
B. Conforming to the relevant requirements of this title’s original adoption but not conforming under amendments thereto;
shall be expeditiously brought to conformity or discontinued within a reasonable time.”

Appellant Remarks: “The normal repair of our heating and cooling system has no adverse effects concerning the safety health or general welfare of the city.”

Issues at Appeal: 1) What is considered “normal repair” of rooftop mechanical equipment? [This issue is dealt with as part of Issue #3, below]
2) At what point does rooftop mechanical equipment affect the safety, health and general welfare of the city?

Staff Response to #1: “This issue is addressed as part of Issue #3, below. Findings made in this section should be considered after a finding is made on Issue #3.”

Potential Findings: 1.1- “Normal repairs of rooftop mechanical equipment includes replacement of parts within existing equipment, but does not include replacement of the equipment with new equipment.”

[OR]

1.2- “Normal repairs of rooftop mechanical equipment includes replacement of parts within existing equipment and the replacement of equipment with new equipment.”

Staff Response to #2: “Ordinance 894, which adopted the 15’ setback provision for rooftop mechanical equipment, contained the following statement as justification for the adoption of its regulations: “…the City Council deems it necessary, for the purpose of securing and promoting the health, safety and general welfare of the people of the City to enact a revised and updated zoning ordinance…”. With this statement, staff treats any rooftop mechanical unit in the C1 Commercial District as affecting the safety, health and general welfare of the city and would find it hard to regulate any rooftop mechanical equipment if that were not the case. Draft finding 2.2 is presented for you below as an option, but it is an option that the Board might have no authority to select and implementation of the Zoning Code based on such a finding could be deemed arbitrary and
capricious and not providing equal protection under the law as is required of us by the 14th Amendment to the US Constitution.”

Potential Findings:

2.1- “Setbacks for all rooftop mechanical equipment in the C1 Commercial District is in the interests of safety, health and general welfare of the city by virtue of the Council’s recital in support of the zoning ordinance’s adoption.”

[OR]

2.2- “Setbacks for certain rooftop mechanical equipment in the C1 Commercial District is in the interests of safety, health and general welfare of the city despite the Council’s recital in support of the zoning ordinance’s adoption.”

SMC 17.44.020 Continuance of uses--Generally

Regulation:  “Any nonconforming use may be continued for a reasonable time under conditions specified in this chapter”

Appellant Remarks:  “As I see no definition of “reasonable amount of time”, I would suggest that any determination of “reasonable” must include discussion of reasonable costs associated with conforming. Conforming to the code in this case would incur an unreasonable cost and result in no net benefit in regards to safety, health or general welfare of the city.”

Issues at Appeal:

3) What is considered a “reasonable amount of time” for rooftop mechanical equipment to be continued as a nonconforming use?

Staff Response to #3:  “The Zoning Code contains no definition of “reasonable amount of time” or “normal repair” [Issue #1] that would provide guidance. When terms are not defined, SMC 1.08.030 requires “All words and phrases shall be construed according to the common and approved usage of the language…”. The Zoning Code does provide specific guidance through the remainder of SMC 17.44, which specifies how uses, structures, and buildings are to be brought into conformity with the code.

The Zoning Code contains the following definitions pertinent to this issue:

SMC 17.10.840- “Use means an activity or purpose for which land or premises or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased”;

SMC 17.10.790- “Structure means anything constructed or erected”; and

SMC 17.10.100- “Building means any structure built or used for the support, shelter or enclosure of any person, animals, goods, equipment or chattels and property of any kind, but does not include fences”.

In the course of the permit review, staff construed “normal repair” of the rooftop mechanical unit to mean the replacement of parts within the existing unit but not to the replacement of the unit as a whole [Issue #1]. Based in part on this reasoning, staff ruled out rooftop mechanical equipment as a separate building and did not definitively state whether rooftop mechanical equipment was a use or a structure. Staff also ruled out the proposal as a component of the main building based on the following rationale and the “bundle of rights” concept of property ownership.

The “bundle of rights” concept treats property owners as if they possess a bundle of sticks representing individual rights, i.e., if an owner wants to prohibit others from trespassing over the property, that is one stick in the bundle; if an owner wants to grant mineral rights to someone else, that is another; construct a building, another stick; if a debtor places a lien on the property, it constrains another separate right, etc.
As a government with the power to adopt laws controlling some of these rights of ownership, staff construed the City’s Zoning Code as if it separated rooftop mechanical equipment as a separate right within the full bundle of rights associated with properties in the C1 Commercial District. A comparison to the M1 Light Industrial District can be made to provide an example. In that district, the City Council saw no cause to regulate rooftop mechanical equipment, no setback from the building edge is required, and property owners in that district enjoy rooftop mechanical equipment as a right inherent in their right to construct a building. The same is not true in the C1 District where this property is located and wherein rooftop mechanical equipment is subject to a regulatory standard. In denying the permit for the replacement unit, staff treated the applicant’s proposal as an attempt to exercise a right that is regulated independently from the rights associated with the primary building and denied the proposal according to the conditions specified in SMC 17.44.060(A) and/or (C) for nonconforming uses and structures.”

Decision on this issue is the crux of this appeal and selection of draft findings 3.1, 3.2, and 3.3 could act to uphold the denial and finding draft finding 3.4 to be fact could overturn the Zoning Administrator’s denial without further review.”

Potential Findings:

3.1- “In the C1 District, the Zoning Code considers rooftop mechanical equipment as a use, and SMC 17.44.060(A) and/or (B) provide adequate guidance on the reasonable amount of time that nonconforming rooftop mechanical equipment uses may continue before being brought into conformity.”

[OR]

3.2- “In the C1 District, the Zoning Code considers rooftop mechanical equipment as a structure, and SMC 17.44.060(C) and 17.44.100 provide adequate guidance on the reasonable amount of time that nonconforming rooftop mechanical equipment structures may continue before being brought into conformity.”

[OR]

3.3- “In the C1 District, the Zoning Code considers rooftop mechanical equipment as a separate building, and SMC 17.44.090 and 17.44.100 provide adequate guidance on the reasonable amount of time that nonconforming rooftop mechanical equipment buildings may continue before being brought into conformity.”

[OR]

3.4- “In the C1 District, the Zoning Code considers rooftop mechanical equipment as part of a building, and SMC 17.44.090 and 17.44.100 provide adequate guidance on the reasonable amount of time that nonconforming rooftop mechanical equipment may continue before being brought into conformity.”

SMC 17.44.030 Criteria for provisional protection

Regulation: “To benefit from the protection given to a nonconforming use, such use must have been legitimately and lawfully established prior to the adoption of the ordinance codified in this title or any amendments thereto.”

Appellant Remarks: “Our situation meets these criteria.”
Staff Response: “Unless additional material to the contrary materializes, staff concurs. A statement to the same effect was included in the letter of denial for this proposal. There is no issue at appeal.”

SMC 17.44.060 Effect of nonconforming use abandonment

Regulation: “A. A nonconforming use, if changed to a conforming use, may not thereafter be changed back to a nonconforming use.
B. A nonconforming use, when discontinued or abandoned, shall not be resumed. Discontinuance or abandonment shall be defined as follows:
1. When improved land, buildings or facilities used as a nonconforming use shall cease to be used for that particular use for six consecutive calendar months;
2. When a building designed or arranged for a conforming use, but used for nonconforming activities ceases to be used for such particular use for a period of nine consecutive calendar months.
C. The land from which any nonconforming structure has been removed shall be subsequently used in conformity with the appropriate district regulations.”

Appellant Remarks: “Reading your letter denying our permit we are directed to SMC 17.44.060(A) & (C). I fail to see the how this section addresses our issue. We are not changing from a conforming use back to a non-conforming use as addressed by (A). We are also not requesting to remove a non-conforming structure from the land (C).”

Issues at Appeal: 4) Does removal of existing nonconforming rooftop mechanical equipment constitute a change in land use?
5) Does removal of existing nonconforming rooftop mechanical equipment constitute a removal of a structure?

Staff Response to #4: “Analysis of this issue depends on the finding and decision made on Issue #3, above. If the Board of Adjustment does not find 3.1 above to be fact, then a finding on Issue #4 is unnecessary. If the Board of Adjustment finds 3.1 above to be fact, then one of the findings below could apply. In the permit review staff did not definitively state whether it was a use or a structure, but that either instance would result in denial of the permit.”

Potential Findings: 4.1- “Removal of existing nonconforming rooftop mechanical equipment is a change in the use of the land to a conforming use, and SMC 17.44.060(A) does not permit the land to be used in a nonconforming manner thereafter.”
[OR]
4.2- “Removal of existing nonconforming rooftop mechanical equipment is not in itself a change in the use of land and its replacement with like equipment is permissible under SMC 17.44.060(A).”

Staff Response to #5: “Analysis of this issue depends on the finding and decision made on Issue #3, above. If the Board of Adjustment does not find 3.2 above to be fact, then a finding on Issue #5 is unnecessary. If the Board of Adjustment finds 3.2 above to be fact, then one of the findings below could apply. In the permit review staff did not definitively state whether it was a use or a structure, but that either instance would result in denial of the permit.”

Potential Findings: 5.1- “Removal of existing nonconforming rooftop mechanical equipment is considered removal of a structure and the land shall subsequently be used in conformity with the Zoning Code as stated in SMC 17.44.060(C).”
5.2- “Removal of existing nonconforming rooftop mechanical equipment is not considered removal of a structure and the land need not be subsequently used in conformity with the Zoning Code according as stated in SMC 17.44.060(C).”

SMC 17.44.090 Normal repairs and alterations permitted when—Restoration of unsafe structure

Regulation: “A. Normal repairs and alterations may be made to a lawful nonconforming building; provided, that no structural alterations shall be made, except those required by law.
B. No existing nonconforming structure designed, arranged, intended for, or devoted to, a use not permitted under this title for the district in which such structure is located shall be enlarged, extended, reconstructed, structurally altered, or moved unless such use is changed to a use permitted under the regulations specified by this title for the district in which such building is located; provided further, that nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe and ordered to be strengthened or restored to a safe condition, unless such building has been destroyed by an extent exceeding seventy-five percent of full value, as determined by consideration of the assessed value referred to above.”

Appellant Remarks: “I suggest this is the most appropriate section of the code that addresses our specific situation. Our only request is to be allowed to complete normal repairs to our HVAC system. I also feel it is worth noting that compiling with code section 17.28.040(M) would likely require structural alterations to the building.”

Staff Response: “The appropriateness of this section depends entirely on the decision made on Issue #3 above. If either 3.1 or 3.2, above, are found as fact above, then any findings related to this section are unnecessary. If draft finding 3.3 above is found to be fact, then the Board of Adjustment should uphold the Zoning Administrator’s decision and deny the proposal based on its inability to comply with this section without additional findings. If draft finding 3.4 is found to be fact, Staff recommends remanding the decision to the Zoning Administrator for final decision and approval and any findings related to this section are unnecessary. The second half of the appellant's remarks deals with a hypothetical situation and should not be addressed by the Board at this point.”

SMC 17.28.040 Density and dimensional regulations

Regulation: “M. Rooftop mechanical equipment must be set back a minimum of fifteen feet from the edge of a roof and screened and/or painted to reduce visual prominence.”

Appellant Remarks: “I would suggest that the last four words (“To reduce visual prominence”) offer the true intent of the code as it was approved. In either their current or code compliant location the components of our HVAC system are not visible from 2nd Street at street level. From street level on 1st Street the compliant location does afford a minimal reduction in visibility when traveling west. When traveling East (this is the most visible perspective) the current and compliant locations are virtually the same. The biggest impact to anyone would be on the residence across from our location, the current (and desired) location is not visible from either the upstairs or downstairs windows. Moving the unit to
meet code would put our HVAC system in their viewshed from both windows.”

Staff Response: “These remarks assume that the Board disagrees with the Appellant’s Issues at Appeal and concurs with the Zoning Administrator’s original denial. The statements present an argument in support of a variance but do not address any issues related to the Zoning Administrator’s decision in denying the permit request. A variance case is not being made here, and the Board should avoid engaging in a discussion on the appropriateness of the regulation for the subject property and focus only on the issues at appeal.”

Concluding Remarks

Appellant Remarks: “To summarize, I’m appealing the denial of my permit based on the fact that this is part of a normal repair that has no negative effects on the health, safety or general welfare of the city. I also feel that the intent of the code is to decrease the visual prominence of rooftop mechanical equipment and yet compliance in this instance results in an increase in visual distraction.”

Staff Response: “While the applicant believes that the proposal is normal repair of his existing building, staff contends that with the City Council’s adoption of a specific dimensional standard for rooftop mechanical equipment we are asked to treat such equipment as a use/structure/building that is independent from the main building and which should be “expeditiously brought into conformity”. The regulation requiring the 15’ setback was adopted by the City in 1994. In the intervening 20 years, the City, based on the provisions of SMC 17.44, has never had need to approach the property owner about bringing the existing unit into conformity; rather, the property owner came to the City at the end of the existing unit’s useful life to seek permission to replace it with a new unit. The proposal affords 1) the property owner the opportunity to comply with the City’s laws on rooftop mechanical equipment that were adopted “for the purpose of securing and promoting the health, safety and general welfare of the people of the City” and 2) the City to implement the C1 density and dimensional standards and nonconforming use provisions in the manner that was contemplated when it was originally adopted this Zoning Code in 1994.”

Prepared by:

Ben Shumaker
Planning Director

Attachments-

1- Draft Decision
2- Appeal Letter
3- Letter of Denial
4- Application Materials
Appeal #2014-01 (Columbia Hardware Rooftop Mechanical Unit)

PROJECT: Columbia Hardware Rooftop Mechanical Unit
LOCATION: 24 NE Second Street (Tax Lot #03-75-36-33-0300)
SUMMARY OF PROPOSAL: Applicant seeks to remove and replace rooftop packaged unit and reconnect duct and gas lines. The location of the existing unit is 13' from the south roof edge and approximately 2' from the west roof edge. The proposed new unit asks to use the same location. The proposal was administratively denied on March 25th, 2014. The denial was appealed by the applicant on March 25th, 2014, and reviewed by the City of Stevenson Board of Adjustment on April 21st, 2014.

DECISION: AFFIRMED [OR] REVERSED
DECISION DATE: April 21st, 2014

Issues at Appeal:
In appealing the decision of the Zoning Administrator, the Appellant raises the following questions:

1. What is considered “normal repair” of rooftop mechanical equipment?
2. At what point does rooftop mechanical equipment affect the safety, health and general welfare of the city?
3. What is considered a “reasonable amount of time” for rooftop mechanical equipment to be continued as a nonconforming use?
4. Does removal of existing nonconforming rooftop mechanical equipment constitute a change in land use?
5. Does removal of existing nonconforming rooftop mechanical equipment constitute a removal of a structure?

Findings of Fact:
Upon Review of the Proposal at their April 21st, 2014 public meeting and under the authority granted in SMC 17.46.020(A) and SMC 2.14.010(B), the City of Stevenson Board of Adjustment finds the following facts:

1. The property at issue is located in the City’s C1 Commercial District.
2. The existing rooftop mechanical equipment was installed in or before 1993.
3. At the time of original installation, the equipment conformed to City ordinances.
4. The existing unit is 13' from the south roof edge and approximately 2' from the west roof edge.
5. The existing unit is failing and needs to be replaced.
6. The placement of the equipment fails to conform to the City zoning code adopted on September 15th, 1994 for the reason that per SMC 17.28040(M) rooftop mechanical equipment may not be placed within fifteen (15) feet from the edge of the roof, and is therefore non-conforming.
7. The non-conforming rooftop mechanical equipment has been used continually since it was originally installed.

Legal Conclusions:
Based on the above facts, City of Stevenson Board of Adjustment applies the law as follows:
1. Normal repairs of rooftop mechanical equipment includes replacement of parts within existing equipment, but does not include replacement of the equipment with new equipment.

[OR]

Normal repairs of rooftop mechanical equipment includes replacement of parts within existing equipment and the replacement of equipment with new equipment.

[OR]

The Board of Adjustment is satisfied that the conclusions made in response to Issues #2 and #3 satisfactorily address its decision on this appeal and declines to make a conclusion related to Issue #1.

2. **Setbacks for all rooftop mechanical equipment in the C1 Commercial District is in the interests of safety, health and general welfare of the city by virtue of the Council's recital in support of the zoning ordinance's adoption.**

[OR]

Setbacks for certain rooftop mechanical equipment in the C1 Commercial District is in the interests of safety, health and general welfare of the city despite the Council’s recital in support of the zoning ordinance's adoption.

3. In the C1 District, the Zoning Code considers rooftop mechanical equipment as a use, and SMC 17.44.060(A) and/or (B) provide adequate guidance on the reasonable amount of time that nonconforming rooftop mechanical equipment uses may continue before being brought into conformity.

[OR]

In the C1 District, the Zoning Code considers rooftop mechanical equipment as a structure, and SMC 17.44.060(C) and 17.44.100 provide adequate guidance on the reasonable amount of time that nonconforming rooftop mechanical equipment structures may continue before being brought into conformity.

[OR]

In the C1 District, the Zoning Code considers rooftop mechanical equipment as a separate building, and SMC 17.44.090 and 17.44.100 provide adequate guidance on the reasonable amount of time that nonconforming rooftop mechanical equipment buildings may continue before being brought into conformity.

[OR]

In the C1 District, the Zoning Code considers rooftop mechanical equipment as part of a building, and SMC 17.44.090 and 17.44.100 provide adequate guidance on the reasonable amount of time that nonconforming rooftop mechanical equipment may continue before being brought into conformity.

4. Removal of existing nonconforming rooftop mechanical equipment is a change in the use of the land to a conforming use, and SMC 17.44.060(A) does not permit the land to be used in a nonconforming manner thereafter.

[OR]

Removal of existing nonconforming rooftop mechanical equipment is not in itself a change in the use of land and its replacement with like equipment is permissible under SMC 17.44.060(A).

[OR]

The Board of Adjustment is satisfied that the conclusions made in response to Issues #2 and #3 satisfactorily address its decision on this appeal and declines to make a conclusion related to Issue #4.

5. Removal of existing nonconforming rooftop mechanical equipment is considered removal of a structure and the land shall subsequently be used in conformity with the Zoning Code as stated in SMC 17.44.060(C).

[OR]

Removal of existing nonconforming rooftop mechanical equipment is not considered removal of a structure and the land need not be subsequently used in conformity with the Zoning Code according as stated in SMC 17.44.060(C).
The Board of Adjustment is satisfied that the conclusions made in response to Issues #2 and #3 satisfactorily address its decision on this appeal and declines to make a conclusion related to Issue #5.

Decision

The Zoning Administrator’s decision on BLD2014-006 which proposed removal and replacement of rooftop mechanical equipment not complying with the 15’ setback required in SMC 17.28.040(M) was in keeping with [OR] contrary to the findings herein and this appeal (APL2014-01) of is hereby:

AFFIRMED

[OR]

REVERSED AND RETURNED TO THE ZONING ADMINISTRATOR WITH INSTRUCTIONS TO APPLY THE PROVISIONS OF SMC 17.44.090(A) AND CONSIDER THE PROPOSAL AS NORMAL REPAIR.

For the Board of Adjustment:

____________________________________
Chair      Date
3/25/14

RE: Building Permit #2014-006

Ben,

I respectfully request an appeal of the denial of my building permit based on the following:

1) 7.44.010 Policy.

In the interests of safety, health and general welfare of the city, uses either:

The normal repair of our heating and cooling system has no adverse effects concerning the safety, health or general welfare of the city.

2) 17.44.020 Continuance of uses—Generally.

Any nonconforming use may be continued for a reasonable time under conditions specified in this chapter.

As I see no definition of "reasonable amount of time", I would suggest that any determination of "reasonable" must include discussion of reasonable costs associated with conforming. Conforming to the code in this case would incur an unreasonable cost and result in no net benefit in regards to safety, health or general welfare of the city.

3) 17.44.030 Criteria for provisional protection.

To benefit from the protection given to a nonconforming use, such use must have been legitimately and lawfully established prior to the adoption of the ordinance codified in this title or any amendments thereto.

Our situation meets these criteria.

4) 17.44.060 Effect of nonconforming use abandonment.

Reading your letter denying our permit we are directed to SMC 17.44.060 (A) & (C). I fail to see the how this section addresses our issue. We are not changing from a conforming use back to a non-conforming use as addressed by (A). We are also not requesting to remove a non-conforming structure from the land (C).
5) 17.44.090 Normal repairs and alterations permitted when-Restoration of unsafe structure.

A. Normal repairs and alterations may be made to a lawful nonconforming building; provided, that no structural alterations shall be made, except those required by law.

I suggest this is the most appropriate section of code that addresses our specific situation. Our only request is to be allowed to complete normal repairs to our HVAC system. I also feel it is worth noting that compiling with code section 17.28.040(M) would likely require structural alterations to the building.

6) 17.28.040 Density and dimensional regulations.

Rooftop mechanical equipment must be set back a minimum of fifteen feet from the edge of a roof and screened and/or painted to reduce visual prominence.

I would suggest that the last four words ("To reduce visual prominence") offer the true intent of the code as it was approved. In either their current or code compliant location the components of our HVAC system are not visible from 2nd Street at street level. From street level on 1ST Street the compliant location does afford a minimal reduction in visibility when traveling west. When traveling East (this is the most visible perspective) the current and compliant locations are virtually the same. The biggest impact to anyone would be on the residence across from our location, the current (and desired) location is not visible from either the upstairs or downstairs windows. Moving the unit to meet code would put our HVAC system in their viewshed from both windows.

To summarize, I’m appealing the denial of my permit based on the fact that this is part of a normal repair that has no negative effects on the health, safety or general welfare of the city. I also feel that the intent of the code is to decrease the visual prominence of rooftop mechanical equipment and yet compliance in this instance results in an increase in visual distraction.

Thank You

[Signature]

Greg Wiebe
Columbia Hardware, Inc
Mr. Wiebe,

After reviewing your building permit application to remove an existing rooftop mechanical unit and replace it with a new unit for conformity with the City of Stevenson Zoning Code, I have found the following deficiencies:

1. **Setback Edge of Roof**- Stevenson Municipal Code section 17.28.040(M) states: “Rooftop mechanical equipment must be setback a minimum of fifteen feet from the edge of a roof and screened and/or painted to reduce visual prominence.”
   The proposed location of the new unit is 2’ from the west edge of the roof and 13’ from the south edge of the roof and violates the 15’ requirement stated above. There is no proposal to screen the unit, but the unit has a factory color of dull gray that should inherently reduce its visual prominence.

2. **Existing Nonconformity**- SMC 17.10.600 states: “‘Nonconforming use’ means a use existing at the effective date of the ordinance codified in this title or at the time of amendment thereto, which does not conform to the standards of the zone or district in which such use is located.”
   SMC 17.44.010 through .120 go on to differentiate between lawful and unlawful nonconforming uses and describe the City’s regulations for ensuring such uses are brought into conformity. For the purposes of this application and in the absence of evidence to the contrary, the existing unit is a lawful nonconforming use which has been entitled under SMC 17.44.020 to be continued for a reasonable time. The new unit, however, is subject to SMC 17.44.060(A) & (C) and must be brought into conformity with the 15’ setback requirement as discussed above.

With the above described deficiencies, the Stevenson Municipal Code requires that this proposal be denied. Review and approval of your project cannot proceed until the proposal is modified to accommodate the required 15’ setback. If you disagree with this administrative action, you may file an appeal of this decision to be reviewed by the City of Stevenson Board of Adjustment according to SMC 2.14.010(B)(1) and SMC 17.46.020. Appeals must be filed within twenty (20) days of the date of this letter informing you of the decision.

Thank you,

Ben Shumaker
Zoning Administrator
APPLICATION FOR MECHANICAL PERMIT

SUBMIT TO:
City of Stevenson
7121 E Loop Road
PO Box 371
Stevenson, WA 98648
509-427-5970 Fax: 509-427-8202

For Office Use Only:
Date Received: _______________________
Permit #: _______________________

Contractor:
Name: CLAWSON HEATING & A/C
Mailing Address: PO BOX 699
City, State, Zip: Gresham OR 97030
Phone Numbers: 503-618-9146

Owner:
Name: COLUMBIA HARDWARE
Mailing Address: 24 NE 2ND ST
City, State, Zip: STEVENSON WA 98684
Phone Numbers: 509-427-5551

Contractors License #: CLAWS949818V
Nearest Cross Streets: FRANIZ JOHNS
Tax Lot #: 375 36 33 200000
Physical Address: 24 NE 2ND ST.

Complete description of all work to be performed:
REMOVE AND REPLACE ROOFTOP PACKAGED UNIT - RECONNECT DUCT & ENDS LINED

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<table>
<thead>
<tr>
<th>B. Mechanical Permit Fees:</th>
<th>Fee</th>
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<tbody>
<tr>
<td>Permit Issuance</td>
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<tr>
<td>1. For the issuance of each mechanical permit</td>
<td>$23.50</td>
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<td>2. For issuing each supplemental permit for which the original permit has not expired, been canceled or expired</td>
<td>$10.70</td>
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<td>Unit Fee Schedule</td>
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<td>(Note: The following do not include permit-issuing fee)</td>
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<tr>
<td>1. Furnaces</td>
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<td>For the installation or relocation of forced-air or gravity-type furnace or burner, including ducts and vents attached to such appliance up to and including 100,000 btu/h (29.3 kW)</td>
<td>$14.80</td>
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<tr>
<td>For the installation or relocation of forced-air or gravity-type furnace or burner, including ducts and vents attached to such appliance over 100,000 btu/h (29.3 kW)</td>
<td>$18.20</td>
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<td>For the installation or relocation of each floor furnace, including vent</td>
<td>$14.80</td>
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<tr>
<td>For the installation or relocation of each suspended heater, recessed wall heater or floor mounted unit heater</td>
<td>$14.80</td>
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<tr>
<td>2. Appliance Vents</td>
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<tr>
<td>For the installation, relocation or replacement of each appliance vent installed and not included in an appliance permit</td>
<td>$7.25</td>
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<tr>
<td>3. Repairs or Additions</td>
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<tr>
<td>For the repair of, the alteration of, or addition to each heating appliance, refrigeration unit, cooling unit, absorption unit, or each heating, cooling absorption or evaporative cooling system, including installation of controls regulated by the Mechanical Code</td>
<td>$13.70</td>
</tr>
<tr>
<td></td>
<td>Boilers, Compressors and Absorption Systems</td>
</tr>
<tr>
<td>---</td>
<td>------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>For the installation or relocation of each boiler or compressor to and including 3 horsepower (10.6 kW) or each absorption system to and including 100,000 Btu/h (29.3kW)</td>
</tr>
<tr>
<td></td>
<td>For the installation or relocation of each boiler or compressor over 3 horsepower (10.6 kW) to and including 15 horsepower (52.7 kW), or each absorption system over 100,000 Btu/h (29.3kW) to and including 500,000 Btu/h (146.6kW)</td>
</tr>
<tr>
<td></td>
<td>For the installation or relocation of each boiler or compressor over 15 horsepower (52.7 kW) to and including 30 horsepower (185.5 kW), or each absorption system over 500,000 Btu/h (146.6 kW) to and including 1,000,000 Btu/h (293.1 kW)</td>
</tr>
<tr>
<td></td>
<td>For the installation or relocation of each boiler or compressor over 30 horsepower (185.5 kW) to and including 50 horsepower (176 kW), or each absorption system over 1,000,000 Btu/h (293.1 kW) to and including 1,750,000 Btu/h (512.9 kW)</td>
</tr>
<tr>
<td></td>
<td>For the installation or relocation of each boiler or compressor over 50 horsepower (176 kW) or each absorption system over 1,750,000 Btu/h (512.9 kW)</td>
</tr>
<tr>
<td></td>
<td>Air Handlers</td>
</tr>
<tr>
<td></td>
<td>For each air handling unit in and including 10,000 cubic feet per minute (cfm) (4719 L/s), including ducts attached thereto Note: This fee does not apply to an air-handling unit which is a portion of a factory-assembled appliance, cooling system, evaporative cooler or absorption unit for which a permit is required elsewhere in the Mechanical Code.</td>
</tr>
<tr>
<td></td>
<td>For each air-handling unit over 10,000 cfm (4719 L/s)</td>
</tr>
<tr>
<td></td>
<td>Evaporative Coolers</td>
</tr>
<tr>
<td></td>
<td>For each evaporative cooler other than a portable type</td>
</tr>
<tr>
<td></td>
<td>Ventilation and Exhaust</td>
</tr>
<tr>
<td></td>
<td>For each ventilation fan connected to a single duct.</td>
</tr>
<tr>
<td></td>
<td>For each ventilation system which is not a portion of any heating or air-condition system.</td>
</tr>
<tr>
<td></td>
<td>For the installation of each hood which is served by a mechanical exhaust, including the ducts</td>
</tr>
<tr>
<td></td>
<td>Incinerators</td>
</tr>
<tr>
<td></td>
<td>For the installation or relocation of each domestic type incinerator</td>
</tr>
<tr>
<td></td>
<td>Solid Fuel Burning Appliance</td>
</tr>
<tr>
<td></td>
<td>For the installation or relocation of each domestic type Solid Fuel Burning Appliance</td>
</tr>
<tr>
<td></td>
<td>Miscellaneous</td>
</tr>
<tr>
<td></td>
<td>When applicable, permit fees for fuel gas piping shall be as follows:</td>
</tr>
<tr>
<td></td>
<td>For each gas piping system of one to four outlets</td>
</tr>
<tr>
<td></td>
<td>For each gas piping system of five or more outlets, for each outlet</td>
</tr>
<tr>
<td></td>
<td>When applicable, permit fees for process piping shall be as follows:</td>
</tr>
<tr>
<td></td>
<td>For each appliance or piece of equipment regulated by the Mechanical Code but not classed in other application categories or for which no other fee is listed in the table.</td>
</tr>
</tbody>
</table>

Applicant Signature

Date: 2-20-14

50.65
Job: COLUMBIA HARDWARE

Customer:

Address: PORTLAND, OR

Submitted By:
Units

<table>
<thead>
<tr>
<th>Tag No</th>
<th>Model No</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>RTU - 1</td>
<td>RKNL-A048JK13E</td>
<td>4 ton, 13 SEER, R410A Commercial Package Gas Electric</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Voltage: 208-230/60/1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Factory Options: Standard</td>
</tr>
</tbody>
</table>

Accessories

<table>
<thead>
<tr>
<th>For Tag No</th>
<th>Field Model</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>RTU - 1</td>
<td>AXRF-FBA1</td>
<td>Fresh Air Damper Manual</td>
</tr>
</tbody>
</table>
## Performance Summary

**Tag:** RTU - 1  
**Model No:** RKNL-A048JK13E  
**AHRI Ref:** 1191473  
**Project:** COLUMBIA HARDWARE  
**City:** PORTLAND  
**Altitude:** 39  
**State:** OR  
**Air Discharge:** Downflow/Horizontal

### Cooling Performance

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>AHRI Rating - Capacity</td>
<td>48,000</td>
</tr>
<tr>
<td>EER</td>
<td>11.45</td>
</tr>
<tr>
<td>SEER</td>
<td>13</td>
</tr>
<tr>
<td>Gross Cap @ AHRI Rating Conditions (btuh) - Capacity</td>
<td>49,969</td>
</tr>
<tr>
<td>Ambient Air (F) - Dry Bulb</td>
<td>86.6</td>
</tr>
<tr>
<td>Wet Bulb</td>
<td>66.2</td>
</tr>
<tr>
<td>Airflow (CFM) - CFM</td>
<td>1600</td>
</tr>
<tr>
<td>SCFM</td>
<td>1600</td>
</tr>
<tr>
<td>System Entering Air (F) - Dry Bulb</td>
<td>80</td>
</tr>
<tr>
<td>Wet Bulb</td>
<td>67</td>
</tr>
<tr>
<td>% RH</td>
<td>51.1</td>
</tr>
<tr>
<td>System Leaving Air (F) - Dry Bulb</td>
<td>58.2</td>
</tr>
<tr>
<td>Wet Bulb</td>
<td>57</td>
</tr>
<tr>
<td>Air Enthalpy (btu/lb) - Entering</td>
<td>31.4</td>
</tr>
<tr>
<td>Leaving</td>
<td>24.4</td>
</tr>
<tr>
<td>Design Net Cooling Capacity (btuh)</td>
<td>50,400</td>
</tr>
<tr>
<td>Sensible</td>
<td>37,700</td>
</tr>
<tr>
<td>Latent</td>
<td>12,700</td>
</tr>
<tr>
<td>Design Gross Capacity (btuh) - Capacity</td>
<td>52,800</td>
</tr>
<tr>
<td>Sensible</td>
<td>40,100</td>
</tr>
<tr>
<td>Total Power - Watts</td>
<td>3979.9</td>
</tr>
<tr>
<td>KW</td>
<td>4.6</td>
</tr>
</tbody>
</table>

### Heating Performance

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gas Heating Values (btuh) - Input</td>
<td>135,000</td>
</tr>
<tr>
<td>Output</td>
<td>106,000</td>
</tr>
<tr>
<td>Heating Airflow (CFM) - CFM</td>
<td>1600</td>
</tr>
<tr>
<td>Air Dry Bulb (F) - Outdoor</td>
<td>27</td>
</tr>
<tr>
<td>Entering Air</td>
<td>70</td>
</tr>
<tr>
<td>Leaving Air</td>
<td>131.3</td>
</tr>
<tr>
<td>Air Temperature Rise (F) - Rise</td>
<td>61.3</td>
</tr>
</tbody>
</table>

### Air Moving System Characteristics

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>External Static Pressure (Inches WG) - ESP</td>
<td>0.3</td>
</tr>
<tr>
<td>Blower Speed or Speed Tap - Tap</td>
<td>Next Higher</td>
</tr>
<tr>
<td>Drive</td>
<td>Direct</td>
</tr>
<tr>
<td>Motor Characteristic (watts &amp; BHP) - Power</td>
<td>706.8</td>
</tr>
</tbody>
</table>

### Electrical Supply

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Power Supply (Volt/Hz/Ph) - Volt/Hz/Ph</td>
<td>208-230/60/1</td>
</tr>
<tr>
<td>Minimum Ampacity (amps) - Ampacity</td>
<td>33</td>
</tr>
<tr>
<td>Max Overcurrent Protection (amps) - Fuse</td>
<td>50</td>
</tr>
<tr>
<td>HACR Breaker</td>
<td>50</td>
</tr>
</tbody>
</table>
## Dimensions, Weight & Clearances

<table>
<thead>
<tr>
<th>Dimensions - Length: 76 - 1/4</th>
<th>Width: 48 - 1/16</th>
<th>Height: 35</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weight (lb) - Weight: 585</td>
<td>Cond. Coil: 18</td>
<td>Duct Side: 12</td>
</tr>
<tr>
<td>Clearances (inches) - Front: 48</td>
<td>Top: 60</td>
<td></td>
</tr>
<tr>
<td>Clearances (inches) - Evap End: 36</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Product Submittal #: 170b0cbf-10e9-4c73-ad93-d123afff79670**

Submittal Printed on: 2/13/2014 4:29:28 PM

For Model: RKNL-A048JKE

In keeping with its policy of continuous progress and product improvement, reserves the right to make changes without notice.

Gross capacity does not include the effect of motor heat. AHRI rating is net capacity and includes the effect of fan motor heat. All net capacities also accounts for the effect of motor heat.

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Fresh Air Damper Manual

FRESH AIR DAMPER
RKNL 3-5 Ton [10.6-17.6 kW] Models
RKPL 3-5 Ton [10.6-17.6 kW] Models
RXRF-FBA1 (Manual)
RXRF-FBB1 (Motorized)

[ ] Designates Metric Conversion
These quality features are included in the Ruud Package Gas Electric Unit

STANDARD FEATURES INCLUDE:

- R-410A HFC refrigerant.
- Complete factory charged, wired and run tested.
- Scroll compressors with internal line break overload and high-pressure protection.
- Single stage compressor on all models.
- Convertible airflow.
- TXV refrigerant metering system on each circuit.
- High Pressure and Low Pressure/Leak of charge protection standard on all models.
- Solid Core liquid line filter drier on each circuit.
- Single slab, single pass designed evaporator coil facilitate easy cleaning for maintained efficiencies.
- Cooling operation up to 125 degree F ambient.
- Easily removable filter, blower, gas heat, and compressor/ control access panels permits prompt service.
- Powder Paint Finish meets ASTM B117 steel coated on each side for maximum protection, G90 galvanized.
- One piece top cover and one piece base pan with drawn supply and return opening for superior water management.
- Externally mounted refrigerant gauge ports for easy service diagnostics.
- Easy to install plug-in, slip in, 100% fully modulating economizer.
- Forkable base rails for easy handling and lifting.
- Single point electrical and gas connections.
- Direct drive or high performance belt drive motor with variable pitch pulleys and quick adjust belt system.
- Permanently lubricated evaporator, condenser and gas heat inducer motors.
- Condenser motors are internally protected, totally enclosed with sealed down design.
- 1 inch filter standard with slide out design.
- Single stage gas valve, direct spark ignition, and induced draft for efficiency and reliability.
- Tubular heat exchange for long life and induced draft for efficiency and reliability.
- Solid state furnace control with on board diagnostics.
- Colored and labeled wiring.
- Copper tube/Aluminum Fin coils.
- Molded compressor plug.