



# Land Use Application Narrative

*For a*

## **Storage Building**

3837 Portland Rd

Salem, OR 97301

Prepared for  
Blue Star Gas  
3837 Portland Rd  
Salem, OR 97301

Submitted August, 2022

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## **PROJECT INFORMATION**

- **Purpose of Application:**

The Applicant, Blue Star Gas, is requesting approval for a storage shed to be built on the property described below.

- **Subject of Application**

Property located at 3837 Portland Rd Salem, OR 97301- Tax Map #073W12CA00200 - 4.82 Acres.

- **Zoning:**

Current Zoning – City of Salem – Commercial Industrial (IC)

- **Property Owner:** Blue Star Gas  
3837 Portland Rd  
Salem, OR 97301

- **Applicant:** Doug Groat- Blue Star Gas

- **Applicant's Authorized Representatives:**

Project Delivery Group, LLC – 200 Hawthorne Avenue, Suite A-100 ▪ Salem, OR 97301

- Contact: Keith Whisenhunt, PE, PLS ▪ (503) 364-4004 ▪ [keithw@pdgnw.com](mailto:keithw@pdgnw.com)

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## Sec. 220.005. Site Plan Review

### **(a) Applicability.**

- (1) Except as provided in subsection (a)(2) of this section, site plan review approval is required:
  - (A) Prior to issuance of a building permit, for any development that requires a building permit.

Response: The Site Plan Review approval is in process. Requirement met.

### **(b) Classes. The three classes of site plan review are:**

- (2) *Class 2 site plan review.* Class 2 site plan review is site plan review for any development under subsection (a)(1) of this section, other than development subject to Class 1 site plan review, that does not involve a land use decision or limited land use decision, as those terms are defined in ORS 197.015:

### **(c) Procedure type.**

- (2) Class 2 site plan review is processed as a Type I procedure under SRC chapter 300.
- (4) An application for site plan review may be processed concurrently with an application for a building permit; provided, however, the building permit shall not be issued until site plan review approval has been granted.

Response: This Class 2 site plan review is being processed as a Type 1 procedure. Requirement met.

### **(e) Submittal requirements for Class 2 site plan review.**

- (1) *Class 2 site plan review.* In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for Class 2 site plan review shall include the following:
  - (A) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
    - (i) The total site area, dimensions, and orientation relative to north;
    - (ii) The location of all proposed primary and accessory structures and other improvements, including fences, walls, and driveways, indicating distance from the structures and improvements to all property lines and adjacent on-site structures;

Response: All dimensions and proposed improvements are clearly depicted in the site plan. Requirement met.

- (vi) All proposed landscape areas on the site, with an indication of square footage and their percentage of the total site area;

Response: All proposed landscape areas depicted with square footage and total area on the site plan (See appendix A). Requirement met.

- (x) Identification of vehicle, pedestrian, and bicycle parking and circulation areas, including handicapped parking stalls, disembarking areas, accessible routes of travel, and proposed ramps.

Response: The required identifications already exist on the site (See Appendix A). Requirement met.

- (B) An existing conditions plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:

- 
- (i) The total site area, dimensions, and orientation relative to north;
  - (ii) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways, noting their distance from property lines; and

Response: The required dimensions and locations are clearly depicted on the site plan (Appendix A). Requirement met.

- (iii) The location of the 100-year floodplain, if applicable.

Response: Non-applicable.

- (C) A grading plan depicting proposed site conditions following completion of the proposed development, when grading of the subject property will be necessary to accommodate the proposed development.

Response: Grading will not be necessary. Non-applicable.

- (E) Building elevation drawings for any proposed new buildings and any exterior additions or alterations to existing buildings when the height of the building, or a portion of the building is changed.

Response: Non-applicable.

#### (f) Criteria.

- (2) *Class 2 site plan review.* An application for a Class 2 site plan review shall be granted if:

- (A) Only clear and objective standards which do not require the exercise of discretion or legal judgment are applicable to the application.
- (B) The application meets all the applicable standards of the UDC.

Response: This application meets all the applicable standards of the UDC. Requirement met.

Sec. 551.010. Development standards.

Development within the IC zone must comply with the development standards set forth in this section.

(b) **Setbacks.** Setbacks within the IC zone shall be provided as set forth in Tables 551-3 and 551-4.

TABLE 551-4. ZONE-TO-ZONE SETBACKS

Abutting Zone	Type of Improvement	Setback <sup>(1)</sup>	Landscaping & Screening
Industrial and Employment Zone: EC, IC, IBC, and IP	Buildings and accessory structures	None	N/A
	Vehicle use areas	Min. 5 ft.	Type A

Response: This requirement is met.

(c) **Lot coverage; height.** Buildings and accessory structures within the IC zone shall conform to the lot coverage and height standards set forth in Table 551-5.

TABLE 551-5. LOT COVERAGE; HEIGHT

Requirement	Standard	Limitations & Qualifications
<b>Lot Coverage</b>		
<b>Buildings and Accessory Structures</b>		
All uses	No Max.	
<b>Height</b>		
<b>Buildings</b>		
All uses	Max. 70 ft.	
<b>Accessory Structures</b>		
Accessory to single family, two family, three family, and four family	Max. 15 ft.	
Accessory to all other uses	Max. 70 ft.	

Response: This requirement is met.

(e) **Industrial performance standards.** Within the IC zone, no land or structure shall be used or occupied unless maintained and operated in continuing compliance with all applicable standards adopted by the Oregon Department of Environmental Quality (DEQ), including the holding of all licenses and permits required by DEQ regulations, local ordinance, and state and federal law.

Response: This project complies with all applicable standards adopted by the DEQ. This requirement is met.

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## Sec. 603.020. Development standards.

Development within the Portland/Fairgrounds Road Overlay Zone must comply with the development standards applicable in the underlying zone and the development standards set forth in this section. The development standards in this section are in addition to, and not in lieu of, all other applicable development standards in the underlying zone. Where the development standards in this section conflict with the development standards applicable in the underlying zone, the development standards in this section shall be the applicable development standard.

(j) **Project enhancements.** Development within the Portland/Fairgrounds Road Overlay Zone shall include four or more of the following project enhancements:

(3) Freestanding sign not more than five feet in height and placed upon a foundation;

Response: The Blue Star Gas sign is on the brick foundation in the flowerbeds in the front of the parking lot behind the sidewalk (see image below). This requirement is met.





- 
- (4) Weather protection, in the form of awnings or canopies, along more than 50 percent of the length of the ground floor building facade adjacent to sidewalks or pedestrian connections;

Response: The awning covers more than 50% of the front of the Blue Star Gas facility facing the sidewalk (see image below). This requirement is met.



- (6) Pedestrian connections that are:
- (A) Constructed with pavers, scored or colored cement, and/or stamped asphalt;
  - (B) Elevated above the parking area and driveway; or
  - (C) Defined with landscaping or building features such as canopies, awnings, or arcades;

Response: The awning covers more than 50% of the front of the Blue Star Gas facility facing the sidewalk. The split flowerbed and landscaping around the sidewalk extension faces the front of



the building (see previous response for awning and below images for landscaping). These requirements are met.



- (9) A minimum of seven percent interior landscaping within parking areas not more than 50,000 square feet in size; or a minimum of ten percent interior landscaping within parking areas greater than 50,000 square feet in size;

Response: There is landscaping and shrubs along the sidewalk facing the building, the southwest side of the building, the southwest side of the paved parking on the property edge, and the west side of the parking lot edge of the building (see image below). This requirement is met.



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## Sec. 603.030. Design review guidelines and design review standards.

(a) *Building location, orientation, and design.*

(1) *Building location.*

(A) *Design review guidelines.*

- (ii) Accessory structures shall be located to minimize their appearance in relationship to the primary building.

Response: The proposed accessory structure will be located to minimize its appearance to the primary building.

(B) *Design review standards.*

- (i) Building setbacks abutting street. Buildings shall have the following setbacks abutting a street:

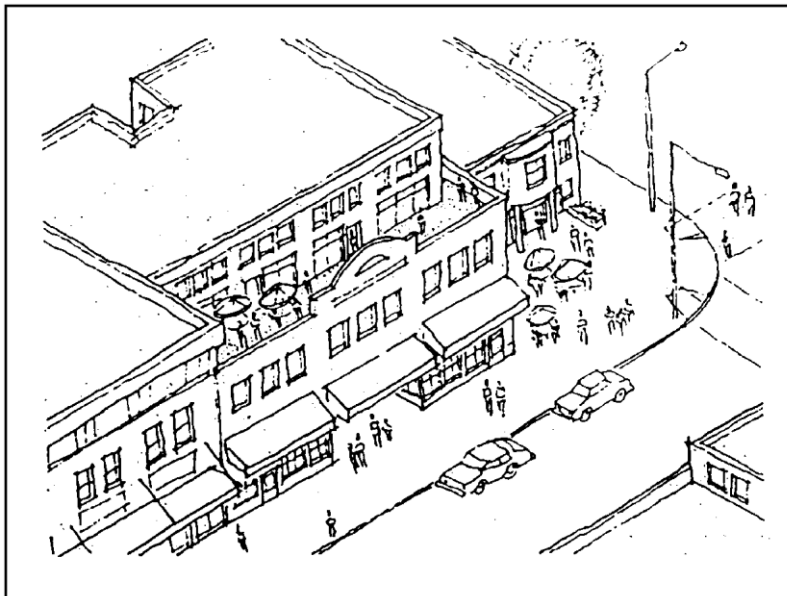
(aa) Minimum: zero feet.

(bb) Maximum: 60 feet.

Response: Non applicable. Proposed is an accessory structure.

- (ii) Accessory structures shall be located no closer to the street than the primary building.

FIGURE 603-1. BUILDING SETBACKS MINIMIZED FROM STREET



Response: Proposed accessory structure is located behind the primary building.

(2) *Building orientation and design.*

(A) *Design review guidelines.*

- (i) Buildings facing Portland/Fairgrounds Road shall create safe, pleasant, and active pedestrian environments.
- (ii) Ground floor building facades facing Portland/Fairgrounds Road shall include transparent windows to ensure that the ground floor promotes a sense of interaction between activities in the building and activities in the public realm.

- 
- (iii) Buildings shall be human scale and avoid long monotonous exterior walls. To minimize the appearance of bulk and divide overall building mass, building offsets and building articulation shall be provided throughout building facades.
  - (iv) Weather protection, in the form of awnings or canopies appropriate to the design of the building, shall be provided along ground floor building facades adjacent to sidewalks or pedestrian connections in order to create a comfortable and inviting pedestrian environment.

Response: Non-applicable. Proposed is an accessory structure.

(b) *Landscaping.*

(1) *Landscaping for open sales and off-street parking.*

(B) *Design review standards.*

- (ii) A minimum ten-foot-wide landscape strip shall be provided between surface parking lots and the street right-of-way. The landscape strip shall be planted with a minimum of one plant unit per 20 square feet of planting area. Berms, mounds, raised beds, and grade drops are allowed if they meet the standards in SRC 603.020(e).

Response: Existing ten-foot-wide landscape strip already in place. Requirement met.

(c) *Off-street parking and loading.*

(1) *Off-street parking.*

(A) *Design review guidelines.*

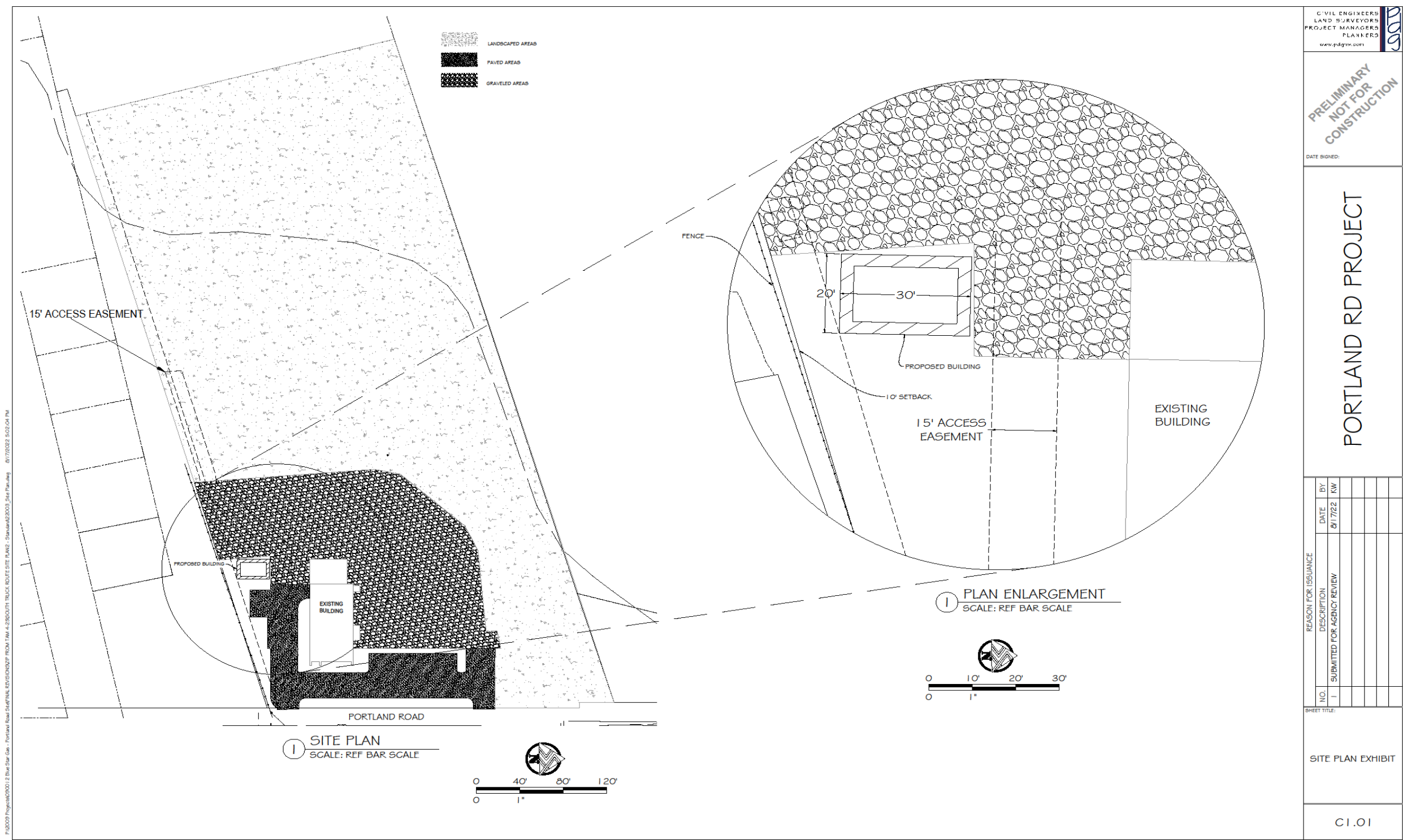
- (i) Parking structures located adjacent to Portland/Fairgrounds Road shall include space for ground floor commercial uses along their Portland/Fairgrounds Road frontage in order to create a safe, pleasant, and active pedestrian environment.

(B) *Design review standards.*

- (i) Parking structures located adjacent to Portland/Fairgrounds Road shall include space for ground floor commercial uses along their entire Portland/Fairgrounds Road frontage.

Response: Non-applicable.

Appendix A: Site Plan





## Appendix B: Parcel Creation

### Memo:

Date: August 9, 2022  
To: 22029 – BSG Portland Road Site  
From: Keith Whisenhunt, PLS  
Re: Legality Tax Lot 073W12CA 00200



Project Delivery Group was contacted by the owner of Tax Lot 073W12CA 00200 (hereinafter referred to as "subject property") to provide an opinion on the legality of the creation of the subject property.

As part of the research, I examined the vesting deed for the subject property recorded at Reel 3126, Page 42, Marion County Deed Records. I then obtained a deed description dated prior to December 31, 1967, said description can be found in a sales contract agreement dated August 12, 1940, recorded at Volume 253, Page 572, Marion County Deed Records. These documents contain the same description for the subject property. The vesting deed includes the addition of two exceptions, these exceptions are for land acquired by public entities for public projects.

In a phone conversation dated July 27, 2022 with Paul M. Kowalczyk, PLS, Salem City Surveyor, Paul indicated that the subject property was annexed into the City of Salem on May 5, 1968 and annexed after January 1, 1968. It is my understanding that access to public roads was addressed as part of the annexation.

Because the subject property was created before January 1, 1968 and annexed after January 1, 1968, it is my professional opinion that the subject property as it is described today is a legally created parcel.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Keith Whisenhunt 8/9/22*

OREGON  
MAY 15, 2012  
KEITH WHISENHUNT  
62679

Expires: June 30, 2024

200 HAWTHORNE AVE SE  
SUITE A 100  
SALEM, OR 97301

503.361.4001  
pdg@pdgrw.com  
www.pdgrw.com

## Appendix : Deed and Title Report



**FIRST AMERICAN TITLE**  
**Property Research Report**

**SUBJECT PROPERTY**  
3837 Portland Rd NE  
526096  
073W12CA00200  
Marion

**OWNER**  
Sydia Realty Co

**DATE PREPARED**  
07/28/2022

**PREPARED BY**  
khinshaw@firstam.com

 **First American Title**

Customer Service 503.219.8746  
os.oregon@firstam.com  
©2019 First American Title Insurance Corporation and/or its affiliates.  
All rights reserved. | NMLS: 147 | 202000000000

IMPORTANT - READ CAREFULLY: THIS REPORT IS NOT AN INSURED PRODUCT OR SERVICE OR A REPRESENTATION OF THE CONDITION OF TITLE TO REAL PROPERTY. IT IS NOT AN ABSTRACT, LEGAL OPINION, OPINION OF TITLE, TITLE INSURANCE COMMITMENT OR PRELIMINARY REPORT, OR ANY FORM OF TITLE INSURANCE OR GUARANTEE. THIS REPORT IS ISSUED EXCLUSIVELY FOR THE BENEFIT OF THE APPLICANT THEREFOR, AND MAY NOT BE USED OR RELIED UPON BY ANY OTHER PERSON. THIS REPORT MAY NOT BE REPRODUCED IN ANY MANNER WITHOUT FIRST AMERICAN'S PRIOR WRITTEN CONSENT. FIRST AMERICAN DOES NOT REPRESENT OR WARRANT THAT THE INFORMATION HEREIN IS COMPLETE OR FREE FROM ERROR, AND THE INFORMATION HEREIN IS PROVIDED WITHOUT ANY WARRANTIES OF ANY KIND, AS IS, AND WITH ALL FAULTS. AS A MATERIAL PART OF THE CONSIDERATION GIVEN IN EXCHANGE FOR THE ISSUANCE OF THIS REPORT, RECIPIENT AGREES THAT FIRST AMERICAN'S SOLE LIABILITY FOR ANY LOSS OR DAMAGE CAUSED BY AN ERROR OR OMISSION DUE TO INACCURATE INFORMATION OR NEGLIGENCE IN PREPARING THIS REPORT SHALL BE LIMITED TO THE FEE CHARGED FOR THE REPORT. IF ANY RECIPIENT ACCEPTS THIS REPORT WITH THIS LIMITATION AND AGREES THAT FIRST AMERICAN WOULD NOT HAVE ISSUED THIS REPORT BUT FOR THE LIMITATION OF LIABILITY DESCRIBED ABOVE, FIRST AMERICAN MAKES NO REPRESENTATION OR WARRANTY AS TO THE LEGALITY OR PROPRIETY OF RECIPIENT'S USE OF THE INFORMATION HEREIN.





**First American Title**

Customer Service Department  
Phone: 503.219.TRIO (8746)  
Fax: 503.790.7872  
Email: [cs.oregon@firstam.com](mailto:cs.oregon@firstam.com)  
Date: 7/28/2022

### OWNERSHIP INFORMATION

Owner: Sydia Realty Co  
CoOwner:

Site: 3837 Portland Rd NE Salem OR 97301  
Mail: 880 N Wright Rd Santa Rosa CA 95407

Parcel #: 526096

Ref Parcel #: 073W12CA00200

TRS: 07S / 03W / 12 / SW

County: Marion

### PROPERTY DESCRIPTION

Map Grid:  
Census Tract: 000400 Block: 3008  
Neighborhood:  
School Dist: 24J Salem-Keizer  
Impr Type: 563 - Commercial Indco Industrial Commercial -  
Manufacturing/Lite Industrial Warehouse  
Subdiv/Plat:  
Land Use: 201 - Commercial Improved  
Std Land Use: IWAR - Warehouse, Storage  
Zoning: IC - Industrial Commercial  
Lat/Lon: 44.975662 / -123.002225  
Watershed: Chehalis Creek-Willamette River  
Legal: ACRES 4.62

### ASSESSMENT AND TAXATION

Market Land: \$539,570.00  
Market Impr: \$560,010.00  
Market Total: \$1,099,580.00 (2021)  
% Improved: 51.00%  
Assessed Total: \$794,160.00 (2021)  
Levy Code: 24950  
Tax: \$15,613.91 (2021)  
Millage Rate: 19.6609  
Exemption:  
Exemption Type:

### PROPERTY CHARACTERISTICS

Bedrooms:	Total SqFt: 3,120 SqFt	Year Built:
Baths, Total:	First Floor:	Eff Year Built:
Baths, Full:	Second Floor:	Lot Size Ac: 4.62 Acres
Baths, Half:	Basement Fin:	Lot Size SF: 201,247 SqFt
Total Units:	Basement Unfin:	Lot Width:
# Stories: 1	Basement Total:	Lot Depth:
# Fireplaces:	Attic Fin:	Roof Material:
Cooling:	Attic Unfin:	Roof Shape:
Heating:	Attic Total:	Ext Walls:
Building Style: UWN - Mini Warehouse	Garage:	Const Type:

### SALES AND LOAN INFORMATION

Owner	Date	Doc #	Sale Price	Deed Type	Loan Amt	Loan Type
SYDIA REALTY CO	01/11/2018	40350055		Deed Of Trust	\$4,500,000.00	Conventional
SYDIA REALTY CO	01/06/2011	32480433		Deed Of Trust	\$788,000.00	Conventional
SYDIA REALTY CO	11/24/2009	31260042	\$525,000.00	Deed		ConvUnk
URBAN RENEWAL AGCY OF CITY/SALEM	11/21/2003	22380442	\$25,600.00	Deed		ConvUnk
JAMES O MCPARTLAND		09160111	\$140,000.00	Deed		ConvUnk

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.


 Rael  
3128

 Page  
42

After recording, AmeriTitle

Sydia Realty Co.

 8830 17th Street NE  
 Seattle, WA 98147

 Until a change is requested all tax, interest, and  
 shall be sent to the following address:

Sydia Realty Co.

Sydia Realty Co.

Document No. 311161

Title No. 312526

1000

## STATUTORY WARRANTY DEED

 and Carl T. McFarland and  
 James O. McFarland, (Jointly) hereby survey and warrant to Sydia Realty Co., a California  
 Corporation, Grantor(s) the following described real property in the County of MARION and State of  
 Oregon free of encumbrances except as specifically set forth herein.

Exhibit A-1

 Beginning at a point which is 12.1' from 1281 and 4.06 chains South 81° 10' West from the Northwest corner of the  
 Township and Range of Section 36, T4N and R10E, according to Claim No. 36, in Township 2 South, Range 5 West of the  
 Willamette Meridian, and going North to the East line of that tract of land conveyed to T. J. McFarland, a California  
 Company, an Oregon Corporation, by deed recorded October 15, 1961 in volume 592, Page 405, Deed Records for  
 Marion County, Oregon and from thence running South 18° 07' West 6.65 chains along said Township line to the South  
 boundary line of the land now owned by L.T. McFarland, thence South 52° 02' East along the South boundary line of the  
 land now owned by L.T. McFarland, 13.1 chains to the middle of the Pacific Highway, thence South 10° 00' East along  
 the middle of said Pacific Highway 1.5 miles to thence North 77° 52' West 11.45 chains to a point, thence going

SOUTH AND WEST to the point conveyed to the heirs of the grantor by and through the State Highway Commission.

 Also SOUTH AND WEST to the point conveyed to the heirs of the grantor by and through the State Highway Commission, November 21, 1961  
 in Vol 275, Page 462

 The above-described property is free of encumbrances except as hereinbefore stated, if any as of the date of this deed and  
 those shown herein, if any.

The true and actual consideration for this conveyance is \$525,000.00.

 BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING THE TITLE SHOULD  
 INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER OR BY DEED, MORTGAGE AND RECORD TO THE LAND AND  
 SUBORDINATE TO THE CLAIM FOR THE LAND, ORIGINALLY OWNED BY THE PERSON TRANSFERRING THE TITLE. THIS INSTRUMENT DOES NOT ALLOW USE OF THE  
 PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND  
 REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING THE TITLE TO  
 THE PROPERTY SHOULD EITHER NOTIFY THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO  
 VERIFY THAT THE USE OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS  
 DEFINED IN ORS 223.006-223.010, OR VERIFY THE APPROVED USE OF THE LOT OR PARCEL, TO DETERMINE  
 ANY APPLICABLE LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS ENJOINED BY ORS 223.006 AND TO  
 INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY UNDER ORS 223.006-223.010 AND  
 223.011 TO 223.036 AND 223.038 TO 223.041, ORS 223.042-223.048, ORS 223.049.

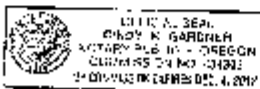
Date: Nov 24, 2009

James O. McFarland and Carl T. McFarland

 State of Oregon  
 County of Marion

The above deed was acknowledged before me on

Nov 24, 2009 by James O. McFarland and Carl T. McFarland


 Philip K. Gardner  
 Notary Public in Oregon

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**REEL: 3126**

**PAGE: 42**

**November 24, 2009, 03:43 pm.**

CONTROL #: 261122

State of Oregon  
County of Marion

I hereby certify that the attached  
instrument was received and duly  
recorded by me in Marion County  
records:

FEE: \$ 41.00

BILL BURGESS  
COUNTY CLERK

THIS IS NOT AN INVOICE.

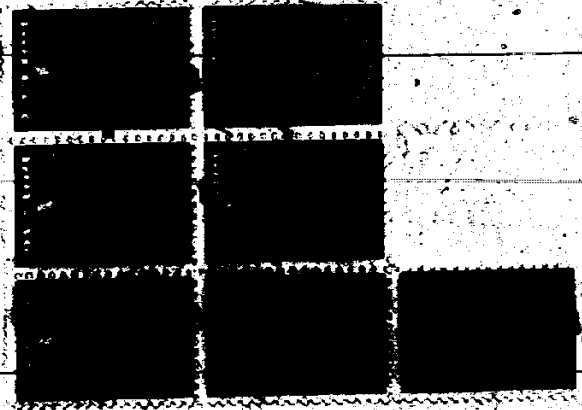
**WITNESSETH** that the said [redacted] and [redacted] have agreed and have agreed to sell and convey unto the said [redacted] for the consideration of the sum of

ten and 40/100 - - - - - DOLLARS,

to her, paid, bargained and sold and by these presents do bargain, sell and convey unto D. E. Mathieson and Grace W. Mathieson, his wife, as tenants by the entirety

the following described premises, to-wit:

Beginning at a point which is 13.11 chains East, and 4.06 chains South 18° 10' West from the Northwest corner of the Donation Land Claim of Samuel Walker and wife, same being Claim No. 39 in Township 7 South, Range 3 West of the Willamette Meridian, in Marion County, Oregon; and from thence running South 18° 10' West 4.62 chains to the South boundary line of the land now owned by L. T. Reynolds; thence South 72° 52' East along the South boundary line of the land now owned by L. T. Reynolds, 10.17 chains to the middle of the Pacific Highway; thence North 83° 20' East, along the middle of the Pacific Highway, 4.82 chains; thence North 72° 52' West 11.45 chains to the place of beginning, and containing 5.00 acres of land, situated in Marion County, Oregon.



**To Have and To Hold** the said premises, with their appurtenances, unto the said D. E. Mathieson and Grace W. Mathieson, his wife, as tenants by the entirety. **Witness** my hand and the seal of the County of Marion, Oregon, this 1st day of [redacted] 19[redacted].

And the said Grantor does hereby covenant  
to and with the said D. E. Mathieson and Grace W. Mathieson, their  
Heirs and Assigns  
that she is the owner in fee simple of said premises; that said premises are free from  
all incumbrances

and that she will warrant and defend the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, I have hereunto set my hand and  
seal this 12th day of August A. D. 1940

Done in Presence of:

Florence Clark (SEAL)  
(SEAL)

INDEXED

423386

479 For Sale by E. E. Moore & Co., Salem

# WARRANTY DEED

FROM  
Florence Clark

TO  
D. E. Mathieson, et al.

STATE OF OREGON,  
COUNTY OF MARION

I certify that the within was received at  
10:15 a.m. on the  
day of DEC 12 1940 and duly  
recorded by me in MARION County  
Records, Book of Deeds, Vol. 358  
Page 573

Mildred P. Brooks  
County Recorder

By Deputy

DWIGHT LEAR  
ATTORNEY AT LAW  
SALMON, OREGON

241 L. O. B. to 1940

## STATE OF OREGON.

County of Marion

On this, the 12th day of August, 1940, personally came before me, a  
Notary Public in and for said County and State, the within named

Florence Clark, widow of George C. Clark and  
to me personally known to be the identical person described in, and who executed the within in-  
strument and who each personally acknowledged to me that she executed the same freely  
and voluntarily for the uses and purposes therein named.

Witness my hand and official seal the day and year last above written.



Notary Public for Oregon.

My Commission Expires April 1, 1941

ESTOPPEL DEED

THIS INDENTURE between RICHARD W. MATHIESON, hereinafter called First Party, and CLIFTON L. ELDRED and IDORA LEE ELDRED, individually, and as co-partners doing business as ELDRED INVESTMENTS, hereinafter called Second Parties;

WITNESSETH:

THAT WHEREAS, the title to the real property hereinafter described is vested in fee simple in the First Party, subject to the vendees' interest in a certain Land Sales Contract dated the 29th day of October, 1976, covering the real property herein-after described, as evidenced by a Notice of Contract, including the terms and provisions thereof, dated November 1, 1976, recorded November 2, 1976, in Reel 61, Page 1533, and re-recorded November 23, 1976, in Reel 63, Page 1394, Film Records for Marion County, Oregon, between D. E. Mathieson and Grace W. Mathieson, vendors and Clifton L. Eldred and Idora Lee Eldred, vendees. The said Land Sales Contract was modified by instrument recorded March 3, 1982, in Reel 274, Page 1769, Film Records for Marion County, Oregon, between D. E. Mathieson and Grace W. Mathieson, husband and wife, therein called vendors, and Clifton L. Eldred and Idora Lee Eldred, husband and wife, licensed real estate brokers, therein called purchasers, reference to said records hereby being made;

WHEREAS, the vendors interest in said Land Sales Contract was duly assigned to Richard W. Mathieson by instrument recorded August 3, 1982, in Reel 287, Page 1088, Film Records for Marion County, Oregon;

WHEREAS, the vendees interest in said Land Sales Contract was duly assigned to Clifton Eldred and Idora Lee Eldred, co-partners, doing business as Eldred Investments, by instrument recorded May 9, 1979, in Reel 167, Page 76, Film Records for Marion County, Oregon;

WHEREAS, the unpaid balance of principal due on said Land Sales Contract is the sum of \$ with the interest thereon paid to the day of , 1984; and

MAIL TAX STATEMENTS TO:

Richard W. Mathieson  
West 2709 Rowan Avenue  
Spokane, Washington 99208

AFTER RECORDING RETURN TO:

Roy Harland  
Post Office Box 470  
Salem, Oregon 97308



WHEREAS, the Second Parties are now in default on said Land Sales Contract and are subject to foreclosure, and whereas the Second Parties being unable to pay the same have requested the First Party to accept an absolute deed of conveyance of said property in satisfaction of the unpaid balance due and owing on said Land Sales Contract, and the First Party has agreed thereto;

NOW, THEREFORE, for the consideration hereinafter stated, the Second Parties do hereby grant, bargain, sell, and convey unto the First Party all of the following described real property situated in Marion County, State of Oregon, to wit:

Beginning at a point which is 13.11 chains East and 4.06 chains South 18°10' West from the Northwest corner of the Donation Land Claim of Samuel Walker and wife, same being Claim No. 39, in Township 7 South, Range 3 West of the Willamette Meridian, Marion County, Oregon; and from thence running South 18°10' West 4.62 chains to the South boundary line of the land now owned by L. T. Reynolds; thence South 72°52' East along the South Boundary line of the land now owned by L. T. Reynolds, 10.17 chains to the middle of the Pacific Highway; thence North 33°20' East along the middle of the Pacific Highway, 4.82 chains; thence North 72°52' West 11.45 chains to the place of beginning.

SAVE AND EXCEPT that portion conveyed to the State of Oregon by and through its State Highway Commission.

ALSO SUBJECT TO rights of the public in and to that portion of the herein described premises lying within the boundaries of roads and roadways.

together with all of the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining;

TO HAVE AND TO HOLD the same unto said First Party, his heirs, successors, and assigns forever.

And the Second Parties, for themselves and their heirs and legal representatives, do covenant to and with the First Party, his heirs, successors, and assigns, that the Second Parties have a vendees' interest in the above-described real property, free and clear of encumbrances except the unpaid real property taxes thereon, and that the Second Parties will warrant and forever defend the above described premises against the lawful claims and demands of all persons whomsoever by reason of their vendees' interest therein under said Land Sales Contract, other than the real property taxes unpaid thereon, the rights of existing tenants, and that this deed is intended as a conveyance, absolute in legal effect as well as in form, of the title to said premises to the First Party and

all redemption rights which the Second Parties may have therein under said Land Sales Contract; that possession of said premises hereby is surrendered and delivered to First Party; that in executing this deed the Second Parties are not acting under any misapprehension as to the effect thereof or under any duress, undue influence, or misrepresentation by the First Party or First Party's representatives, agents, or attorneys; that this deed is not given as a preference over other creditors of the Second Parties and that at this time there is no person, co-partnership, or corporation, other than the First Party, interested in said premises directly or indirectly, in any manner whatsoever, except as aforesaid. That Second Parties do hereby agree that First Party may retain as liquidated damages the amount of all payments heretofore made on such Land Sales Contract and without any reimbursement unto Second Parties for any improvements made on said premises by Second Parties.


By acceptance and recording this deed, the First Party releases the Second Party from all further claims that may arise by virtue of said Land Sales Contract.


The true and actual consideration paid for this transfer is the cancellation of the amount of indebtedness due and owing on said Land Sales Contract by Second Parties.

IN WITNESS WHEREOF, the Second Parties above named have executed this instrument this 10<sup>th</sup> day of January, 1985.

  
Clayton L. Eldred - Individually

  
Idora Lee Eldred - Individually

  
Clayton L. Eldred

  
Idora Lee Eldred

Co-Partners, doing business as  
ELDRED INVESTMENTS

STATE OF OREGON                    )  
  ) ss.  
County of Marion                    )

On this 10<sup>th</sup> day of January, 1985, personally appeared the  
above named CLIFTON L. ELDRED and IDORA LEE ELDRED and acknow-  
ledged the foregoing instrument to be their voluntary act and deed.

Before me:

Marion L. B. B. B.  
Notary Public for Oregon  
My commission expires: 3-27-87

STATE OF OREGON                    )  
  ) ss.  
County of Marion                    )

On this 10<sup>th</sup> day of January, 1985, personally appeared the  
above named CLIFTON L. ELDRED and IDORA LEE ELDRED, co-partners,  
doing business as ELDRED INVESTMENTS, and acknowledged the fore-  
going instrument to be their voluntary act and deed.

Before me:

Marion L. B. B. B.  
Notary Public for Oregon  
My commission expires: 3-27-87

STATE OF OREGON

County of Marion

I hereby certify  
that the within was  
received and duly  
recorded by me  
in Marion County  
records:

REEL      PAGE  
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Page 4      Estoppel Deed  
            Mathieson/Eldred

JAN 16 4 26 PM '85

ALAN H. DAVIDSON  
MARION COUNTY CLERK

BY [Signature] DEPUTY

1700