



*Where Life is Sweet*

Members of the Planning Commission  
**STAFF REPORT**  
For the Meeting of December 14, 2022

**Title/Subject**

Major Variance- Amazon Data Center 4N2824 Tax Lot 600- 994 E Penney Ave

**Summary and Background**

Leif Van Acker has submitted an application for a major variance on land located at 994 E Penney Ave. The property is owned by Amazon Data Services, Inc. and is described as 4N 28 24 Tax Lot 600. The property is under development review for a new data center project with the city. The property is zoned Outlying Commercial/Heavy Industrial (C-2/M-2). In November of 2019 the planning commission determined that a data center was a use permitted outright in the C-2/M-2 zone.

The proposed data center sits on a 100-acre lot at the southwest corner of E Penney Ave and SE Kelli Blvd. The development will encompass the entirety of the site over multiple phases of development. At full build-out four data center buildings will be constructed. There will also be ancillary structures, such as water storage, backup power generation, and an electrical substation on-site. Each data center building encompasses approximately 214,850 square feet.

The major variance requested is for a deviation from the industrial parking standard in the zoning ordinance which requires one parking space for each 1,000 square feet of floor area. Based upon the ordinance requirements, four 214,000 square foot buildings will require 861 parking spaces. The applicant is requesting this parking ratio be reduced to 213 spaces based upon the actual number of employees and visitors to the site. Each building is anticipated to have 30 employees per shift and additional spaces are proposed to accommodate overlap during shift changes, visitors, and deliveries.

The city has considered industrial parking variances in the past. Specifically, Meyer Distributing was granted a parking variance for an auto parts distribution center immediately north of this site in 2021. In each case, the parties based their variance request on the discrepancy between floor area and actual employees on-site. In the case of the application before the planning commission, there is not a true parking ratio provided in the code for a data center, thus the default parking ratio is calculated as industrial manufacturing and warehousing. Data centers are a newer use than contemplated in the city's zoning ordinance and did not exist at the time the code was written. In surveying other communities, large industrial buildings often use a parking ratio that provides a maximum cap. An example would be a city which establishes a similar ratio to Hermiston at 1 space per 1,000 square feet, but places a maximum cap on spaces (e.g., 1 per 1,000 to a maximum of 100 spaces). Other cities calculate industrial parking based

on total number of employees per shift (Troutdale) or have much lower ratios such as 1 per 3,000 square feet (Tualitan). An industrial use as proposed falls well outside Hermiston's parking definitions for industrial uses. Hermiston has only one industrial definition; *Storage warehouse, manufacturing establishment, rail or trucking freight terminal or wholesale establishment*, and a data center which is mostly unmanned and filled with computer equipment, does not fit well under any of the use categories.

The similar facilities constructed by Amazon Data Services in Umatilla and Umatilla County have similar parking ratios. The McNary facility has approximately 100 spaces for three buildings. The Umatilla facility has approximately 200 spaces for four buildings. The Westland facility has approximately 100 spaces for three buildings.

Based on the existing inadequacy of the zoning code to address this particular land use, staff recommends that a variance be approved. The required parking of 861 spaces, far exceeding the potential employee count, is not justifiable and creates additional environmental concerns which far exceed any benefit provided by the parking.

Staff supports the granting of the variance request based on the inadequacy of the current code to address newer, large-scale, low-employee industrial uses. Requiring 861 parking spaces for the development adds nearly 650 more parking spaces than needed to address the employee and service/delivery needs. These 650 spaces add approximately 3.5 additional acres of impervious surface to the development. The extra impervious surface requires additional storage and treatment of stormwater as well as contributing to potential urban heat island effects. The facility is intended as a fenced, secure facility with controlled entry and no public access. The additional cost of 3.5 acres of paving creates a potential hardship for the developer beyond any potential benefit.

Per §157.225(A) of the Hermiston Code of Ordinances, the planning commission may grant variances where it can be shown that, owing to special and unusual circumstances, literal interpretation of the zoning code would cause an undue or unnecessary hardship.

Per §157.178(B) the planning commission may determine a special parking requirement for a use not listed in the zoning ordinance. The planning commission may also determine that a data center is sufficiently different from a warehouse, manufacturing establishment, or freight terminal to not be considered as a use listed in §157.176 and qualifies for a different parking ratio determined by the planning commission.

Public notice was provided to all property owners within 300 feet by direct mail on November 30, 2022. A sign was physically posted on the property on November 30, 2022. A notice of hearing was also published in the Hermiston Herald on November 30, 2022.

### **Tie-In to Council Goals**

The City Council has extended enterprise zone benefits to this development.

### **Fiscal Information**

The proposed development qualifies for enterprise zone benefits and will not pay property taxes for several years. However, the city has negotiated a separate impact fee in lieu of taxes which generates bridging revenue to assist in offsetting development impacts.

### **Alternatives and Recommendation**

## Alternatives

The planning commission may choose to:

- Approve the requested variance for 213 spaces
- Approve the variance but specify a different number of parking spaces
- Deny the variance request and require 861 spaces

## Recommended Action/Motion

Staff recommends that the variance be approved as requested.

## **Submitted By:**

Clinton Spencer, Planning Director