

MEETING LOCATION CHANGE
CITY OF CODY
PLANNING, ZONING AND ADJUSTMENT BOARD AGENDA
TUESDAY, JUNE 27, 2023 AT 12:00 P.M. (NOON)
CITY AUDITORIUM 1240 BECK AVE, CODY, WY

1. Call the Meeting to order.
2. Executive Session, pursuant to W.S. 16-4-405 (a)(ix).
3. Roll Call, excused members
4. Pledge of Allegiance
5. Approval of the Agenda for the June 27, 2023 Regular Meeting.
6. Approval of the Minutes from the June 15, 2023 Special Meeting.
7. Reconsideration of the Conditional Use Permit findings related to building height.
8. Consideration of the proposed Findings of Fact of the Conditional Use Permit
9. Tabled Item: Special Exemption application related to building height of the proposed temple of The Church of Jesus Christ of Latter-Day Saints, proposed at 555 Temple View Lane.
10. Tabled Item: Commercial Site Plan Application for the proposed temple of The Church of Jesus Christ of Latter-Day Saints, proposed at 555 Temple View Lane.
11. New Business: None.
12. P & Z Board Matters (announcements, comments, etc.)
13. Council Update
14. Staff Items
15. Adjourn

The public is invited to attend all Planning, Zoning and Adjustment Board meetings. If you need special accommodations to participate in the meeting, please call the City office at (307) 527-7511 at least 24 hours in advance of the meeting.

City of Cody
Planning, Zoning, and Adjustment Board Special Meeting
June 15, 2023

A special meeting of the City of Cody Planning, Zoning and Adjustment Board was held in the Cody Auditorium in Cody, Wyoming on Tuesday, June 15, 2023 at 6:00 pm.

Scot Richard made a motion, second by Dan Schein to go into an Executive Session, pursuant to W.S 16-4-405 (a) (ix). Vote on the motion was unanimous, motion passed.

Carson Rowley called the meeting to order at 6:03 pm.

Carson Rowley went over the public hearing protocol and how the meeting will be ran.

Attorney Scott Kolpitcke spoke on what a is a personnel and private conflict of interest.

Carson Rowley continued his explains on how the meeting will be ran.

Present: Carson Rowley; Dan Schein; Kim Borer; Scott Richard; Matt Moss; Council Liaison Andy Quick; City Attorney Scott Kitchen; City Planner Todd Stowell; GIS Analyst Utana Dye, Barb Curless Assistant Finance Director.

Absent: Josh White, Ian Morrison

Caron Rowley led the pledge of allegiance.

Kim Borer made a motion to approve the agenda for June 15, 2023 special meeting seconded by Dan Schein. Vote on the motion was unanimous, motion passed.

Kim Borer made a motion to approve the minutes from the June 13, 2023 regular meeting, seconded by Matt Moss. Vote on the motion was unanimous, motion passed.

City Planner Todd Stowell spoke on the special exemption and the conditional use permit. He presented a picture of the temple site and a visual of what the temple will look like at different perspective. He also showed a map of the show who are in favor is in green and the opposed is in pink. The white is from those who did not resubmit comments.

Public hearing was open at 6:19 p.m. for the Special Exemption and Conditional Use Permit for the proposed temple of The Church of Jesus Christ of Latter-Day Saints, proposed at 555 Temple View Lane.

For
Andrew Jacobsen
Luke Hopkin
Jimmie Edward
Noma Walton-
Brook Grant

Glenn A. Nielson
Georgina Hopkins
Karen Jones
Yvonne Nielson
Megan George
McKennah Buck
John Bollinger
Chris Taggart
Arlene George
Mark Allphin
Bethany Holso
Rod McNair
Ryan Beardall
Susan
Allison Maxwell
Alicia Torres
Randy Tolman
Christien Renee
Don Maxwell
Jay Winzenried

Scott Richard made a motion to take short break at 7:22 p.m., second by Kim Borer. Vote on the motion was unanimous. Motion passed.

The meeting reconvened at 7:30 p.m.

Against
Brandi Nelson
Carla Egelhoff
Greg Brooks
Terry Skinner
Dan Hammond
Patrick Petit
Ty Nelson
Tim Hopkins
Connie Hopkins
Daniel Miller
Janet Jones
Randall Franzen
Jack Hatfield
Graciela Lparraguirre
Sharon LaGrant
Dan Brauser
Gloria Hedderman
Felica Canfield
Fred Schneider
Mary Morehouse
Deb Wendtland

Public hearing was closed at 8:32 p.m.

City Planner Todd Stowell reviewed the interpretation of building height, as related to the proposed temple at 555 Temple View Lane (located just west of Skyline Drive and north of the Cody Canal, approximately 400 feet north of the intersection of Skyline Drive and Olive Glenn Drive).

Scott Richard made a motion that the board not accept the City Planner's building height interpretation until further discussion and clarification could be had on roof top projections and our codes to avoid unintended consequences and precedent setting down the road that could negatively impact the community. No second on the motion. The motion fails.

Matt Moss made a motion to accept the roof top projection and building height interpretation as presented by the City Planner. No second on the motion. The motion fails.

Matt made a motion on religious structures copula steeple in excess of over 30'.

Dan Schein made a motion second by Kim Borer to table the interpretation of the building height. Scott, Dan, Kim was in favor of the motion. Carson and Matt were opposed to the motion. Vote on the motion failed.

Item B failed for lack of motion.

City Planner Todd Stowell review the Special Exemption application related to building height of the proposed temple of the Church of Jesus Christ of Latter-Day Saints, proposed at 555 Temple View Lane.

Kendall Hoopes- Attorney for The Church of Latter-Day Saints, Matthew Burk-Senior project manager, Jeremy Haskell- Principal Architect Joey Krueger- Engineer, Greg Rasmussen Senior Director of the Church. They spoke on behalf of the Temple project.

Matt Moss made a motion, to except the Special Exemption application related to the building height of the propose temple of The Church of Jesus Christ of Latter-Day Saints, proposed at 555 Temple View Lane. Second on the motion, Motion failed lack of a second.

Matt Moss made a motion, second by Scott Richard to table the Special Exemption application related to the building height of the proposed temple of The Church of Jesus Christ of Latter-Day Saints, proposed at 555 Temple View Lane. Voter on the motion, Scott Richard, Kim Borer, Carson Rowley, Matt Moss were in favor of the motion. Dan Schein was opposed to the motion. Motion passes.

City Planner Todd Stowell review the commercial site plan application for the proposed temple of the Church of Jesus Christ of Latter-Day Saints, proposed at 555 Temple View Lane.

Scott Richard made a motion, second from Matt Moss to approve commercial site plan application for the proposed temple of The Church of Jesus Christ of Latter-Day Saints,

proposed at 555 Temple View Lane. Vote on the motion Scott Richard, Carson Rowley and Matt Moss were in favor of the Vote. Kim Borer was opposed to the motion. Dan Schein abstained from the vote. Motion failed.

Matt Moss made a motion second by Kim Borer to table the commercial site plan application for the proposed temple of The Church of Jesus Christ of Latter-Day Saints, proposed at 555 Temple View Lane. Scott Richard, Dan Schein, Kim Borer, and Matt Moss were in favor of the motion. Carson Rowley was opposed to the motion. Motion passed.

Patrick Petit spoke on the fence waiver as an objection to the waiver.

Kim Borer made a motion, second by Matt Moss to approve the fence height waiver for the proposed temple of The Church of Jesus Christ of Latter-Day Saints, proposed at 555 Temple View Lane. The vote on the motion was unanimous, motion passed.

The board took a short break to at 10:05 p.m.

The meeting reconvened at 10:15 p.m.

City Planner Todd Stowell review the Conditional Use Permit application for the proposed temple of The Church of Jesus Christ of Latter-Day Saints, proposed at 555 Temple View Lane.

Matt Moss made a motion to the approve Conditional Use Permit if we can come to a conclusion on the special exemption for the building height for the proposed temple of The Church of Jesus Christ of Latter-Day Saints, proposed at 555 Temple View Lane. Failed.

Matt Moss made a motion, second form Kim Borer to a table the Conditional Use Permit with findings as stated in the staff report as recommend for the proposed temple of The Church of Jesus Christ of Latter-Day Saints, proposed at 555 Temple View Lane. Scott Richard, Carson Rowley, and Matt Moss were in favor of the motion. Dan Schein and Kim Borer was opposed to the motion. Motion failed.

Carson Rowley made a motion, second by Kim Borer, to approve the Conditional Use Permit as stated in the staff report with findings and recommendation there in for the proposed temple of The Church of Jesus Christ of Latter-Day Saints, proposed at 555 Temple View Lane after Scott Kolpitcke advised the board that the building height interpretation and special exemption request would remain separate applications for discussion at a later date. Scott Richard, Kim Borer, Carson Rowley and Matt Moss were in favor of the motion. Dan Schein was opposed to the motion. Motion passed.

P&Z Board Matters (announcements, comments, etc.): none

Kim Borer made a motion, seconded by Dan Schein, to adjourn the meeting. Vote on the motion was unanimous. The meeting was adjourned at 11:21 p.m.

Utana Dye

GIS Analyst

Public hearing was closed at 8:32 p.m.

City Planner Todd Stowell reviewed the interpretation of building height, as related to the proposed temple at 555 Temple View Lane (located just west of Skyline Drive and north of the Cody Canal, approximately 400 feet north of the intersection of Skyline Drive and Olive Glenn Drive).

Scott Richard made a motion that this board does not interpret the same decision as the City has on the height, and more clarification on the steeple in the code that be identify to prevent unprecedent decision down the road that could affect our community. No second on the motion. The motion fails.

Matt Moss made to except the projection to except the interpretation that Todd has provide with the projection 24' high with the projection of roof top projection as stated steeple. No second on the motion. Motion fails lack of a second.

Matt made a motion on religious structures copula steeple in excess of over 30'.

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P&Z Board Matters (announcements, comments, etc.): none

Kim Borer made a motion, seconded by Dan Schein, to adjourn the meeting. Vote on the motion was unanimous. The meeting was adjourned at 11:21 p.m.

Utana Dye
GIS Analyst

CODY PLANNING, ZONING & ADJUSTMENT BOARD

PROPOSED FINDINGS OF FACT FOR THE CONDITIONAL USE PERMIT FOR THE CODY WYOMING TEMPLE OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

WHEREAS, Haskell Architecture & Engineering, Inc., representing The Church of Jesus Christ of Latter-Day Saints has submitted the Conditional Use, Special Exemption, and Site Plan applications and associated review fees for development of a temple, accessory building, street, and associated improvements on a 4.69-acre parcel (highlighted on map), and an entrance road on adjacent City right-of-way;

WHEREAS, The property is located just west of Skyline Drive and north of the Cody Canal, about 400 feet north of the Olive Glenn Drive intersection (Tract B2 of the Record of Survey showing Boundary Line Adjustment recorded in Plat Cabinet P, Page 197, Records of the Park County Clerk and Recorder); the property would have an address of 555 Temple View Lane;

WHEREAS, The June 15, 2023 public hearing and opportunity to comment on the conditional use permit and special exemption has been advertised through a notice in the Cody Enterprise newspaper on May 30, 2023, and direct mailing to immediate neighbors within 140' of the applicant's private property on May 25, 2023, which meets notice requirements;

WHEREAS, the Board has considered hundreds of comments in the form of emails, letters, phone calls, and further testimony at the advertised public hearing, and considered them within the context of applicable local laws, state and federal law, and the U.S. Constitution.

NOW THEREFORE, THE CODY PLANNING, ZONING, AND ADJUSTMENT BOARD MAKES THE FOLLOWING STATEMENTS AND FINDINGS RELATED TO THE CONDITIONAL USE PERMIT FOR THE CODY WYOMING TEMPLE OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS:

The following are the Standards of Review for conditional use permits.

The Board finds that the City of Cody's conditional use permit criteria are met due to the reasons noted, as follows.

1. Is the site large enough to accommodate the proposed use and meet all of the dimensional standards and development regulations of the zoning district in which the project is located?

Finding: Everything proposed and required for the temple project is able to be accommodated on the property while complying with all dimensional standards and development regulations of the zoning district. This finding is supported by the following:

- a) The temple building complies with applicable zoning setbacks, as well as applicable lot coverage and other dimensional standards. The ancillary building will also comply with the building setbacks.
- b) All of the parking spaces and drive aisles meet City requirements as far as surfacing, dimensions, slopes, ADA spaces, lighting, and total amount required.
- c) As the temple site has abundant on-site parking, there is no justification for requiring on-street parking along the north side of Temple View Lane.
- d) Both the Public Works Director and Fire Marshal are agreeable to the street profiles and dimensions proposed.

2. Is the use, at the scale or density proposed, compatible with all other uses in the immediate area and with permitted uses that may be established in the area?

Finding: The temple proposal does not otherwise impose any impacts (e.g. traffic, lighting, noise) that are greater than other permitted uses in the area, particularly when considering distance from neighboring residences. The facts support a finding that the applicant has met this condition.

In support of the above finding, and as evidence of similar uses determined compatible in the RR zoning district, the following findings are noted.

Finding: Other permitted uses in the RR zone, or in the immediate area include:

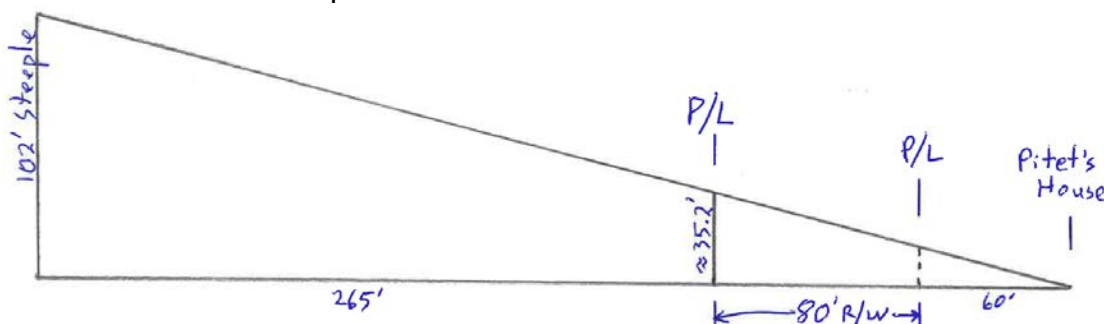
- i) Playfields, such as the softball fields towards the east end of Sheridan Avenue, with six, 72-foot-tall light poles providing playfield lighting much brighter than the lighting of the proposed temple, and parking capacity of at least 150 spaces—again greater than the proposed temple. As a permitted use in the RR zone, the installation of ballfield lighting would not require a zoning review.
- ii) Golf courses, including clubhouses. While the Olive Glenn Golf course and clubhouse is in an R-2 zone, it is in the immediate area, and would also be

permitted if it were located in the Rural Residential zone in which the temple is proposed. Per the County assessor, the Olive Glenn clubhouse is 10,544 square feet, which is larger than the proposed temple building. The number of parking spaces at the golf course clubhouse is 90, which is more than the amount of parking that would be required for the temple project. The golf course is open 7-days a week, but the temple only five. Olive Glenn has not only the course, and clubhouse, but a restaurant and pro shop that are open to the general public as an accessory use. The reception/restaurant area and "Pioneer Room" at the clubhouse have a combined capacity of 191 persons alone, not counting the 50-person capacity of the lobby. The hours of operation of the golf course and clubhouse are likely similar to that of the temple.

- iii) Parks. The capacity of parks is difficult to estimate, but even a small park utilized for such events as Yellowstone Fire Association soccer events can easily extend well above a hundred attendees. The City has 4.5 acres of undeveloped park land/open space in the RR zone, provided as the required public use area contribution for the Chugwater Rims Subdivision, which would be precluded from being developed as a park if parks were prohibited from the RR zoning district.

Finding: When determining if compatibility can occur, the concept of mitigation can be applied to components of a project that may have significant measurable impacts to neighboring properties. However, the amount of mitigation need only be sufficient to reduce the significant impact to a reasonable level. The concept of mitigation has been used in developing the site plan conditions.

Finding: A structure or tree approximately 35 feet tall at the east property line of the temple property (140 feet away from the Pitet's house) is calculated to be visually equivalent to the height of the steeple due to the differences in distance between them, when viewed at the closest point of the Pitet's house.



Finding: The perceived view impacts from the steeple are the result of individual personal preferences (a tree versus a steeple). No evidence has been provided showing the existence of a viewshed easement or a significant impact to public health, safety, welfare, or morals from the loss of view. We find that views impacted by the development of the temple site are do not interfere with or impair existing property

rights, or public health, safety, welfare or morals, and will be compatible with existing uses in the area.

Finding: The proposed illumination levels at the east property line are minimal (below 0.1 footcandles) except for the lighting of the entry road on the City right-of-way, and that light is reduced to 0.1 levels by the time it reaches the neighbor's lot.

Finding: The proposed temple parking lot would have an average of 2.18 footcandles, which is almost ¼ less than the Hampton Inn parking lot (2.8 fc). No known complaints have been received relating to the Hampton Inn parking lot.

Finding: The site lighting and parking lot lighting are consistent with past City authorizations in that the light color does not exceed 4,000K, the light fixtures are full-cutoff in style, and calculations indicate that the light will be almost entirely retained within the property boundaries.

Finding: The authority for regulating site lighting is from the on-site parking section of the zoning ordinance. It simply states: "*Parking areas for civic, commercial, and industrial uses that will be utilized outside of daylight hours shall be provided with illumination. All parking lot lighting shall be designed and installed such that illumination will be directed away from any neighboring residential properties and shall be directed downward by utilizing full cutoff or fully shielded fixtures.*" The proposed lighting of the temple parking lot meets those requirements.

Finding: Although there is no requirement to provide landscaping, the proposed installation of landscaping, as shown on the landscaping plan, increases the compatibility with neighboring existing land uses.

3. Does the proposed use involve activities, processes, materials, equipment, hours of operation, or any other operational characteristics that would be materially detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, dust, glare, odors, hazards, or similar impacts?

Finding: No excessive production of traffic, noise, smoke, fumes, dust, glare, odors, hazards, or similar impacts have been attributed to the temple proposal. In practice, this requirement is not applied to the construction period, as the construction period is temporary and an overly-strict interpretation and application of this standard would preclude construction activities of any kind.

Finding: The grading and stormwater plan has been prepared by a professional engineer and meets minimum City requirements specified by the Stormwater Management Policy. The plan is acceptable to the Public Works Director.

Finding: The stormwater plan is based on 100-year, 2-hour storm, as specified by Church policy, which greatly exceeds the City's 10-year or 25-year requirements and does not increase discharge rates or amounts for the 100-year, 2-hour design storm.

Finding: The erosion control plan appears acceptable as far as the containment fencing. A stormwater pollution prevention plan (SWPPP), and perhaps permit is required to meet WY DEQ requirements. The applicant is aware and plans to obtain those authorizations as needed

Finding: With so much excess parking, snow storage can occur in portions of the parking lot, where it can eventually melt into the stormwater collection system.

Finding: The use of roll out containers for garbage collection services has been requested and is acceptable to the sanitation division (Public Works). Rollouts will have less visual impact than dumpsters. Pickup will occur at the cul-de-sac bulb on Temple View Lane, far from any existing neighbors.

Finding: Traffic associated with the temple and the anticipated 5-lot Nielson subdivision is expected to be roughly equivalent to what would occur if the temple property and immediate Nielson lands were fully developed as a residential subdivision—based on the comparison of estimated traffic generation noted in the traffic impact study compared to the theoretical 42-lot subdivision.

Finding: The abundance of parking will ensure that during occasional events, such as landscaping projects, there will be sufficient parking to accommodate large groups of participants without spilling outside of the temple site. It would also accommodate the occasional RV or vehicle with a trailer.

Finding: The applicant has met this conditional use permit requirement, as applied to the ongoing operations of the temple.

4. Does the proposal include provisions for necessary and desired public utilities and facilities such as potable water, fire hydrants, sewer, electrical power, streets, stormwater facilities, and sidewalks/pathways?

Finding: Public Works and the 3rd party utility providers have indicated that there is sufficient capacity in each of the anticipated utilities to serve this project. The combination of the proposal and the conditions of the associated site plan review ensure that adequate public utilities and facilities will be provided as needed to serve the temple project. All examples listed will be provided on the temple site as part of this project. Existing utilities will also be protected as necessary.

Finding: No clear authority for off-site improvements is stated. However, the applicant is voluntarily developing construction plans for the missing section of curb and gutter

and associated minor widening of Skyline Drive for about 200 feet north of proposed Temple View Lane. Construction is planned to occur as part of the temple project. As much of the missing segment of curb and gutter is outside of the scope of the temple project, it is primarily the City's responsibility for installation.

5. Will the proposed use create excessive additional costs for public facilities and services that would be materially detrimental to the economic welfare of the community?

Finding: No excessive additional costs for public facilities and services, beyond that of comparable permitted uses, such as residential development, playfields, golf courses, and parks, are anticipated. For example, Temple View Lane will be private, so there are no City costs related to street construction or maintenance. The sewer, water, power, and other utilities in Temple View Lane would be the City responsibility, but the overall amount of City infrastructure is significantly less than if it were a residential subdivision.

Finding: As the temple site has abundant on-site parking, there is no justification for requiring on-street parking along the north side of Temple View Lane.

Finding: Both the Public Works Director and Fire Marshal are agreeable to the street profiles and dimensions proposed.

Finding: The temple traffic during the AM peak hour is estimated to include 24 vehicles entering the property and 8 vehicles exiting, for a total of 32 trips. The temple traffic during the PM peak hour is projected to have 19 vehicles entering the property and 18 vehicles exiting, for a total of 37 trips.

The traffic generation from the proposed temple and contemplated 5-lot subdivision is estimated to generate an amount of traffic almost identical to what would be generated from a theoretical 42-lot subdivision, with one exception, the subdivision traffic would occur at that level or higher for 7-days a week, while with the temple and 5-lot subdivision proposal traffic would likely be significantly less the two days the temple is closed. Such an analysis is appropriate when looking at comparable permitted or conditional uses—it is not a comparison of what is proposed to a situation of "no development", but to likely alternate development.



Finding: The portions of Skyline Drive that lead to the temple site are classified as collector streets (minor and major).

Finding: After reviewing the traffic study, the Public Works Director has stated that the traffic generated from the proposed temple will not cause any significant impacts to the capacity or condition of Skyline Drive. The engineers that performed the traffic study also concluded that, "Since all study intersections were found to operate acceptably, Fehr & Peers does not recommend any mitigation measures..."

Finding: The City has never adopted a traffic mitigation impact fee or policy to require off-site mitigation of traffic impacts. For the City to impose any form of traffic mitigation would deviate from the City's prior practice.

Finding: If additional protection for pedestrians or bicyclists using Skyline Drive is desired, the use of traffic delineators, such as shown in this photo would appear to be a viable option. As there is not clear authority for off-site improvements, it would be at the City's expense.

6. Will the proposed use result in the destruction, loss or damage of a natural, scenic or historic feature considered to be of significant importance?

Finding: The site was most recently used as a cow pasture. There are no known natural, scenic, or historic features on the site that are of significant importance.

7. Is the proposed use consistent with the applicable provisions of the Cody Master Plan?

Finding: The master plan is a guide, that does not have the status of law. The Cody master plan itself states that "The goals, objectives, and principles found in the Master Plan Frameworks provide guidance for future planning and decision-making in Cody. These statements are not hard-and-fast regulations, but rather statements that reflect the community's aspirations."

Finding: It is acknowledged that it is possible for different portions of the master plan to conflict with other portions, causing them to have to be considered in their order of importance. Furthermore, the master plan does not specify the level of importance of each principle or goal. However, each of the items from the master plan contained in the staff report have been met, as noted below.

GOAL 1: Cody will maintain its character as an attractive western town that is welcoming to residents and visitors alike. Finding: A significant portion of the community views the temple as attractive. The character of the town is found in its people—the teachings given in the temple promote the attractiveness (e.g. well-kept

properties due to the concept of stewardship) and the welcoming attitude for fellow residents and visitors, that is so important.

Objective 1.1: *Advocate and promote attractive and appropriate development of the City.* Finding: Many view the building as attractive. The appropriateness of the development is evidenced through compliance with the other conditional use permit criteria.

Principle 1.1.a. Community Image. The future of the tourist-oriented component of the community is heavily dependent on how the City and community meet the expectations of its national and international visitors. So long as the community takes pride in the details, including aesthetics, amenities, and friendly attitudes, it will be attractive and inviting to visitors and residents alike. Finding: Many view the temple and its grounds as aesthetically pleasing. It is an amenity serving the region. The friendly attitudes are promoted by what is taught in the temple.

Principle 1.1.b. Landscaping. Developments in commercial, office, multi-family, and light industrial areas should include quality landscaped areas along major streets and in large parking lots. Initial development plans should include preliminary landscape concepts and address responsibility for maintenance. Finding: The temple property will be extensively landscaped.

Principle 1.1.d. Architecture. Encourage quality architecture and design for new commercial, office and multi-family buildings and renovations... Finding: The Planning and Zoning Board promotes the utilization of quality building materials and construction. The temple building meets those expectations.

Principle 1.1.h. Award Great Design. Creativity on the part of private developers should be rewarded through recognition and support from the community. Finding: Approval of the project would recognize great design.

Principle 3.1.b. Existing Neighborhoods. Protect the existing character in stable residential areas. New residential, office, commercial, or industrial development that is not in harmony with the existing or desired future character of these neighborhoods should be discouraged. Finding: The conclusion of the application of the other conditional use permit criteria is that the project is compatible with the neighborhood because the temple has characteristics that do not create any impacts beyond other uses permitted in the existing neighborhood.

Principle 3.1.c. Protect Residential Uses. Protect residential neighborhoods by transitioning between residential and non-residential land uses through appropriate zoning, development review processes, and buffer methods. In areas where non-residential land uses are located adjacent to or within neighborhoods, require screening or barriers to limit the impacts on residential uses. Buffer methods could include

fencing, berms, native vegetation, plantings, trails and recreation areas, and density transitions. Finding: The temple project provides adequate buffers due to greatly increased setbacks and the extensive landscaping provided within those setbacks.

Principle 3.1.f. Building Heights. Limit the height of new and remodeled construction to respect the existing or desired character of neighborhoods and districts, maintain a consistent scale of development, and preserve scenic views. Finding: The temple building complies with the building height limit for the zone in which it is located.

Principle 3.3.a. Development Review. Expedite the development review process for developers when development includes a public benefit and meets the goals set forth in this plan. Finding: There is no public benefit to delay a decision when all of the necessary information has been provided and it has been shown that the applicable criteria are met.

Principle 3.3.b. Cooperative Approach. When working with property owners, developers, and City staff, all parties are expected to maintain a cooperative attitude, promote open communication, and work to identify mutually-beneficial solutions to problems that may arise during the review process. Finding: All efforts have been made to provide a legitimate review process, maintain a cooperative attitude, and seek proper mitigation of potential negative impacts to the extent of applicable regulations.

Objective 6.4: Provide stormwater management systems that mitigate the impacts of heavy storm and flood events, address the effects of development, and protect the health of the public and the environment. Finding: The stormwater plan exceeds City standards.

Principle 8.4.a. Opportunities for Civic Engagement. Include opportunities for meaningful public engagement and feedback in the City of Cody's planning and community development activities. Finding: Opportunity to provide written comments throughout the notice period has been provided, as customary, although such is not required. The public hearing has also provided additional opportunity for meaningful public engagement.

Objective 9.1: Support a vibrant, year-round local economy that allows for economic growth while protecting Cody's small-town lifestyle. Finding: Several comments noted how those attending the Cody temple would also redirect much of their purchasing power to Cody and the State of Wyoming, whereas now they spend it in Billings, Montana. That support would be on a year-round basis.

Principle 13.1.b. Quality of Life. Support the preservation of Cody's quiet character by limiting noise and lighting impacts where quality of life is important. Finding: The ability to perform temple worship locally is a significant quality of life improvement for those in the community. The temple project will not produce noise, with the exception

of associated traffic, yet the amount of traffic and associated noise levels do not exceed that of other uses permitted in the zone.

Principle 14.1.f. Street Hierarchy. Ensure a street system that properly considers and implements the functional classification of each street, such that arterial and major collector streets are maximized for mobility and capacity, and minor collectors and local streets function within their intended limits so that residential streets are protected from excessive volumes of traffic and the intrusion of undesirable cut-through traffic. Avoid situations where undesirable cut-through traffic occurs on minor collectors and local streets. Finding: Skyline Drive, as a collector street, will continue to function within its capacity with the temple traffic.

ADDITIONAL FINDING:

Finding: The staff report was prepared in a manner that complies with the U.S Constitution, federal law, the City of Cody Code, and the City Personnel and Policy Manual.

**CITY OF CODY
PLANNING, ZONING AND ADJUSTMENT BOARD
STAFF REPORT**

MEETING DATE:	JUNE 27, 2023	TYPE OF ACTION NEEDED	
AGENDA ITEM:		P&Z BOARD APPROVAL:	X
SUBJECT:	SPECIAL EXEMPTION: HEIGHT OF STEEPLE FOR THE CODY WYOMING TEMPLE OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS. SUP 2023-08	RECOMMENDATION TO COUNCIL:	
PREPARED BY:	TODD STOWELL, CITY PLANNER	DISCUSSION ONLY:	

The following analysis of the Special Exemption review criteria as they relate to the proposed height of the steeple for the Cody Wyoming Temple of The Church of Jesus Christ of Latter-Day Saints is provided for the Planning and Zoning Board's consideration.

REVIEW CRITERIA:

Pursuant to Section 10-14-2(B) of the City of Cody Code, the Planning and Zoning Board may consider special exemptions to the dimensional standards of the zoning ordinance and waive or modify the standards.

The special exemption relates to the height of the steeple for the proposed temple. It is proposed to extend approximately 101 feet above the finished floor level of the temple building. Normally the extent of the exemption is also noted. However, the Board has not determined the official "building height" that is proposed. It is not 101 feet, but something less, due to the adopted definition of "building height" found in the zoning code. The following analysis simply reviews the special exemption criteria without reference to the extent of the modification.

The criteria for approval of a special exemption are as follows, with staff comments provided. The applicant has also provided responses to each of the criteria in their submittal letter.

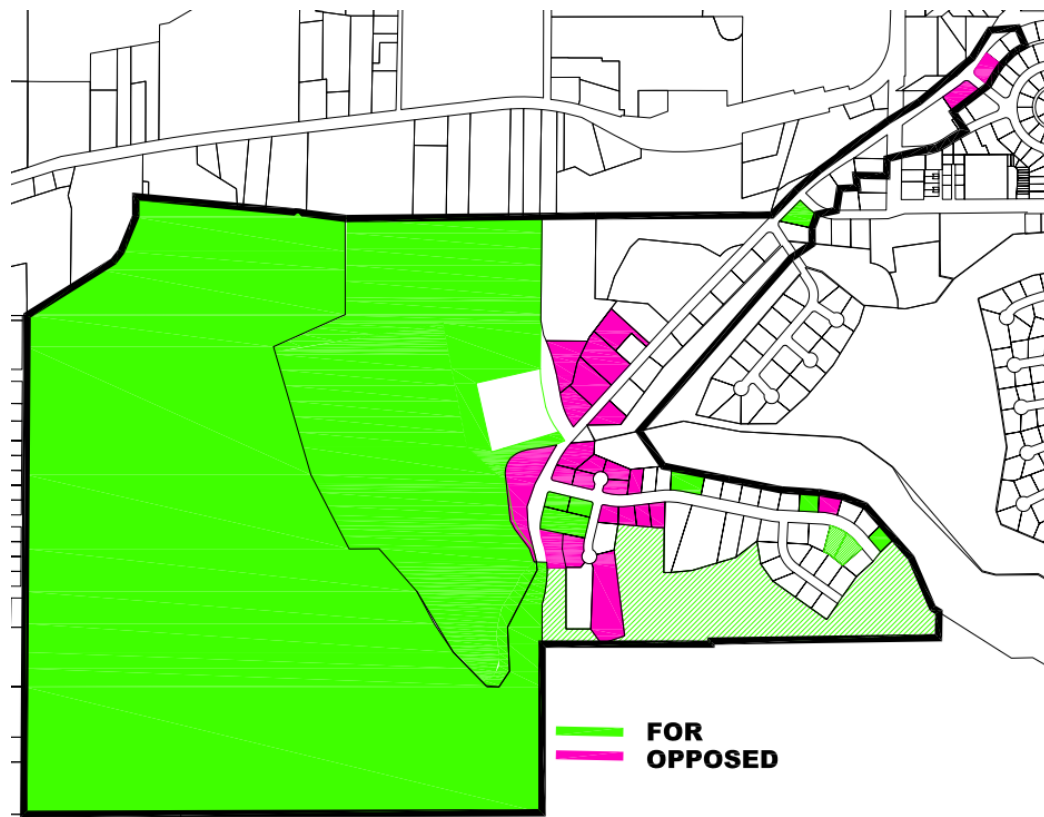
Approval Standards: No special exemption shall be approved unless the Planning and Zoning Board finds:

- a. The special exemption will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties;*

Comment: The scope of the special exemption is the height of the steeple—not the use, or any other component of the project related to construction of the temple for The Church of Jesus Christ of Latter-day Saints.

The only neighbor with property located in the same Rural Residential zone as the proposed temple is supportive of the temple project in its entirety, which includes the steeple at the height proposed. Refer to the area encompassed by the bold line on the following map, which map uses green to indicate “no objection”, pink as “objection”, and white (blank) as no comment. Note that the map boundary is somewhat subjective as to what the “neighborhood” boundary would include, but is among the broadest of the possible boundaries.

The “no comment” properties (50) greatly exceed in both area and number those properties owned by persons with objections (24) to the temple steeple.



It is up to the Board to find if the criterion is met, after considering relevant factors.

Two factor the board may consider are whether steeples and/or towers are common to churches, followed by whether churches are found in other residential zoning districts in the City of Cody? The answer to both is a yes. Approximately 70% of the churches in Cody are in residential zoning districts. Many do not have steeples or towers, but many do. One of the most identifiable architectural components of a church would be a steeple or tower. A steeple is not typically used for any other type of building. Therefore, churches are unique in this aspect. It would be inconsistent to determine that a steeple is not appropriate for a church (or temple) when that is one of its most identifiable features.

Based on the City records for variances or special exemptions, or perhaps more appropriately said the lack of mention of any church steeples in those records, steeples on churches have always been authorized by the City when requested. Only one other steeple in Cody appears to have been subject to any kind of variance or special exemption process, and that was the current steeple for the Cody Stake Center of The Church of Jesus Christ of Latter-Day Saints authorized by the Planning and Zoning Board and City Council in 2002 when it replaced a ground-mounted spire. It was processed just a few months before the then City staff realized they did not properly consider the building height definition when calculating building height (refer to 26 June 2002 memo from Steve Payne relating to the house on Lot 3 of the Panorama Subdivision—read at public meeting and provided to P&Z Board with the staff report sent June 16, 2023), which knowledge would have avoided the need for a variance for the steeple that was authorized to extend 68 feet above finished floor level of the building.

With steeples being a normal component of church buildings, and church buildings being commonly found in residential zoning districts due to their compatible nature, the only remaining objective analysis would relate to height of the steeple. The applicant provided a memorandum dated 13 June 2023 that provides significant information related to how the height of the steeple relates to fundamental architectural principles (memo to P&Z Board posted 13 June 2023 on City website and emailed to P&Z Board 19 June 2023). Please review. The steeple height has been carefully designed to be proportional to the size of the temple building, and the 30-60-90-degree triangle formed by the steeple and outside corners of the building are further reflected throughout the architecture of other components of the building, such that modification of the steeple height would disturb the proportionality of the entire temple design.

Other steeples throughout the Cody community generally extend in the range of 50 to 70 feet above finished grade. The proposed temple steeple would extend 101 feet. The proposed steeple would be located approximately 400' to the closest neighboring residences. The most effective mitigation measure for increased height is increased distance, as they are directly proportional—a doubling of distance reduces the perceived height in half. If staff analysis is correct, no other steeple located in a residential zoning district has greater setbacks from neighboring property lines than the proposed temple steeple, and the proposed temple steeple would be visually proportional to other major church steeples in Cody, when comparing the setbacks provided. Specifically, the ratio of steeple height to setback is approximately 1:4 for the proposed Cody temple; the Catholic church bell tower/cross at 50' tall, located 200' from residence would also have a ratio of 1:4; the Presbyterian bell tower at 72' tall, 300' from residence would have a ratio of 1:4; the Episcopal church cross at 35 feet, 130' from guest house (180' from main residence) would have a ratio of just less than 1:4; the Cody LDS stake center steeple at 70', 245' from nearest house would have a ratio of 1:4.8; the Cody mural LDS building steeple at 70', 190 feet from the nearest house would have a ratio

of about 1:2.7 (all measurements fairly reliable, but not guaranteed). The mitigation provided by the additional setback from the temple steeple to the nearest residences reduces the perceived impact to a level comparable with other steeples in the Cody community and is therefore sufficient mitigation from the perspective of an objective analysis.

b. The special exemption is designed to be compatible with adjacent land uses and the area or neighborhood;

Comment: See "a" above, which demonstrates that the design of the overall project mitigates the additional steeple height requested to a level consistent with other major churches in the Cody community. The surrounding neighborhood consist of residential zones where churches, including churches with steeples, are permitted uses.

c. The special exemption is the minimum deviation from the specifications of this title necessary and adequate for the proposed activity, structure or use;

Comment: See "a" above, specifically the point that modification of the steeple height, whether taller or shorter, would throw the entire architectural design of the temple out of proportion, thereby violating the foundational architectural principles used to create the design. The size of the building is consistent with other buildings permitted in the zoning district (e.g., golf course clubhouse), and is not significantly larger in square footage than residences in the area, while of a necessity must contain sufficient area to allow the purposes of the building to occur. Therefore, the size of the building need not be reduced, and the height of the steeple must be as proposed to remain architecturally proportional to the building.

d. The benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue other than a special exemption;

Comment: There are no other methods available to achieve the benefit sought, other than accepting the interpretation on building height that was presented by staff. As that has not been accepted by the Board as of the time of this report, only the Special Exemption process remains.

e. Adequate services and infrastructure are or will be available to serve the proposed activity, structure or use; and

Comment: The steeple will comply with all applicable building and fire codes and does not create any need for special services or infrastructure.

f. The special exemption is consistent with the goals, policies and future land use map of the master plan.

Comment: As mentioned in the corresponding section in the Conditional Use Permit review and associated findings adopted by the Planning and Zoning Board, the temple project, including the steeple, complies with many, if not all, of the master plan goals, policies, and land use map. Those that pertain to the steeple could include the following. However, note that the master plan is not an adopted City ordinance, and itself states that "The goals, objectives, and principles found in the Master Plan Frameworks provide guidance for future planning and decision-making in Cody. These statements are not hard-and-fast regulations, but rather statements that reflect the community's aspirations."

It is acknowledged that it is possible for different portions of the master plan to conflict with other portions, causing them to have to be considered in their order of importance. Furthermore, the master plan does not specify the level of importance of each principle or goal. However, each of the items from the master plan that may relate to the proposed steeple height are listed below and could be interpreted as having been met, as noted below.

GOAL 1: Cody will maintain its character as an attractive western town that is welcoming to residents and visitors alike.

Finding: A portion of the community views the temple, with the steeple as proposed, as attractive. Evidence from the architect indicates that changing the steeple height would disrupt the proportionality of the temple design. The character of the town is found in its people—the teachings given in the temple promote the attractiveness (e.g. well-kept properties due to the concept of stewardship) and the welcoming attitude for fellow residents and visitors that is so important.

Objective 1.1: Advocate and promote attractive and appropriate development of the City.

Finding: Many view the building as attractive. The appropriateness of the development is evidenced through compliance with the other permit criteria.

Principle 1.1.a. Community Image. The future of the tourist-oriented component of the community is heavily dependent on how the City and community meet the expectations of its national and international visitors. So long as the community takes pride in the details, including aesthetics, amenities, and friendly attitudes, it will be attractive and inviting to visitors and residents alike.

Finding: Many view the temple and its grounds as aesthetically pleasing. It is an amenity serving the region.

Principle 1.1.d. Architecture. Encourage quality architecture and design for new commercial, office and multi-family buildings and renovations...

Finding: The Planning and Zoning Board promotes the utilization of quality building materials and construction. The temple building meets those expectations. Quality

architecture includes proportional design. If the steeple were taller or shorter, it would not be proportional to the building.

Principle 1.1.h. Award Great Design. Creativity on the part of private developers should be rewarded through recognition and support from the community.

Finding: Approval of the steeple would recognize great design.

Principle 3.1.b. Existing Neighborhoods. Protect the existing character in stable residential areas. New residential, office, commercial, or industrial development that is not in harmony with the existing or desired future character of these neighborhoods should be discouraged.

Finding: The conclusion of the other permit criteria is that the steeple is compatible with the neighborhood because the temple steeple has characteristics that do not exceed impacts created by other church steeples, due to the increased setbacks provided by the temple site.

Principle 3.1.c. Protect Residential Uses. Protect residential neighborhoods by transitioning between residential and non-residential land uses through appropriate zoning, development review processes, and buffer methods. In areas where non-residential land uses are located adjacent to or within neighborhoods, require screening or barriers to limit the impacts on residential uses. Buffer methods could include fencing, berms, native vegetation, plantings, trails and recreation areas, and density transitions.

Finding: The temple project provides adequate buffers due to greatly increased setbacks and the extensive landscaping provided within those setbacks.

Principle 3.1.f. Building Heights. Limit the height of new and remodeled construction to respect the existing or desired character of neighborhoods and districts, maintain a consistent scale of development, and preserve scenic views. Finding: [The temple building complies with the building height limit for the zone in which it is located.] OR [The height of the proposed steeple is mitigated to the level of many comparable steeples found in residential zoning districts throughout the City due to the large setbacks provided from neighboring residences, which mitigation is sufficient.]

Principle 3.3.a. Development Review. Expedite the development review process for developers when development includes a public benefit and meets the goals set forth in this plan.

Finding: There is no public benefit to delay a decision when all the necessary information has been provided and it has been shown that the applicable criteria are met.

Principle 3.3.b. Cooperative Approach. When working with property owners, developers, and City staff, all parties are expected to maintain a cooperative attitude, promote open

communication, and work to identify mutually-beneficial solutions to problems that may arise during the review process.

Finding: Efforts have been made to provide a legitimate review process, maintain a cooperative attitude, and seek proper and proportional mitigation of potential negative impacts to the extent of applicable regulations.

Principle 8.4.a. Opportunities for Civic Engagement. Include opportunities for meaningful public engagement and feedback in the City of Cody's planning and community development activities.

Finding: Opportunity to provide written comments throughout the notice period has been provided, as customary, although such is not required. The public hearing has also provided additional opportunity for meaningful public engagement.

The zoning ordinance states, "In approving a special exemption, the Planning and Zoning Board may impose any reasonable conditions or modifications pertaining to operational or physical features of the proposal to ensure conformance with the approval standards of subsection C2 of this section." As the scope of the special exemption is limited to the height of the steeple, there are no "operational or physical features" that exist that can be modified—either the steeple is the height proposed or it is a different height. Therefore, no conditions or modifications are proposed as part of the special exemption authorization.

ALTERNATIVES:

Approve, deny or approve with conditions.

ATTACHMENTS:

Application materials and neighbor responses.

RECOMMENDATION:

That the Planning and Zoning Board make the following findings:

(Draft, subject to information received at the public hearing.)

1. That proper notice of the special exemption public hearing was provided by advertising in the Cody Enterprise and by U.S. mail to all property owners within 140 feet at least ten days before the hearing.
2. That the Planning and Zoning Board may grant special exemptions that are reasonable and harmless deviations from the zoning ordinance as determined by the standards outlined in Section 10-14-2, City of Cody Code.
3. That the Planning and Zoning Board has held a public hearing as required and has considered all comments pertaining to the request; and,
4. That the points identified in the staff report and at the Board meeting are adequate to set forth the reasoning why the criteria of 10-14-2(B)(2) are met.

AND,

Approve the Special Exemption to authorize the steeple as proposed for the Cody Wyoming temple of The Church of Jesus Christs of Latter-Day Saints.

CITY OF CODY PLANNING, ZONING AND ADJUSTMENT BOARD STAFF REPORT			
MEETING DATE:	JUNE 27, 2023	TYPE OF ACTION NEEDED	
AGENDA ITEM:		P&Z BOARD APPROVAL:	X
SUBJECT:	CODY WYOMING TEMPLE OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS. FILE NOS: SPR 2023-13, SUP 2023-08 (BOTH CUP AND SE) AND FNC 2023-01	RECOMMENDATION TO COUNCIL:	
PREPARED BY:	TODD STOWELL, CITY PLANNER	DISCUSSION ONLY:	

THIS REPORT SUPPLEMENTS THE REPORT PREPARED FOR THE JUNE 15, 2023 MEETING.

The first part of this staff report is simply the same version of the site plan review analysis provided in the previous report, minus the fence height waiver topic that has been approved. The second part discusses the Height/Special Exemption topic (page 12).

PART I

SITE PLAN REVIEW:

The authority for site plan review is stated as follows:

9-2-3: MEETING WITH PLANNING, ZONING AND ADJUSTMENT BOARD REQUIRED BEFORE BUILDING PERMIT ISSUED:

Before the issuance of any permit under the International Building Code for commercial buildings situated within the City, the applicant, property owner and occupant shall meet with the Planning, Zoning and Adjustment Board to review the application and plans insofar as they pertain to the exterior of a commercial building and site plan conditions. The issuance of a permit shall be conditioned upon the applicant receiving an affirmative vote of a majority of the Planning, Zoning and Adjustment Board members in attendance at said meeting.

The City has consistently considered churches and schools as being subject to the above provision. The following are items typically reviewed as part of that process.

Architecture:

There is no architectural review required for development within the residential zoning districts, except multi-family housing, which this is not.

Landscaping:

There is no requirement to provide landscaping for development within residential zoning districts, unless the project is multi-family housing, or in an entry corridor overlay district—neither of which is the case. However, since landscaping is provided, the plan has been reviewed and the following comments are provided.

No trees are authorized in the City right-of-way along the east side of the temple site. Any shrubs, bushes and other woody vegetation placed in the City right-of-way will need to meet the standards of City code [7-4](#) (relates to spacing from utility lines). The landscaping plan will need to be revised accordingly. Grass or other groundcover in that area remains an option. Any disturbed areas beyond the landscaped areas that lack vegetation are to be planted with dryland grass seed, or any better alternative method authorized by Public Works, to help prevent weeds and control erosion.

Landscaping in the immediate area around the electrical switch gear cabinet must consider the minimum clearances required. Depending on the size of the cabinet, some of those shrubs shown nearest the cabinet may need to be removed from the plan. Based on a quick review, the selected plants generally appear suitable for the climate. Some plants may attract deer (e.g. red twig dogwood), which is an issue throughout town. I also wonder if a different fir species would do better than Douglas fir at this site.

Access:

The proposed access situation is shown on the site plan. A new street, to be known as "Temple View Lane" will be constructed from Skyline Drive, along the south boundary of the temple site, ending in a cul-de-sac bulb. Two accesses to the temple site will be from that new street, as shown. Although the eastern temple access is on City right-of-way, City staff have indicated their preference that that section be privately maintained, to which the applicant has verbally agreed. With the designation of private instead of public, staff recommends a memorandum of understanding, simply outlining that it is a private improvement, with no maintenance responsibility for the City, and that if the right-of-way is ever developed with a public street, the party constructing that street would have the right to remove and/or reconfigure that access as needed, working in good faith with the property owner. Current City staff put the probability of that right-of-way being improved with a public street as extremely close to zero—way too costly and way too constrained by existing utilities and topography to justify such minimal traffic circulation benefit.

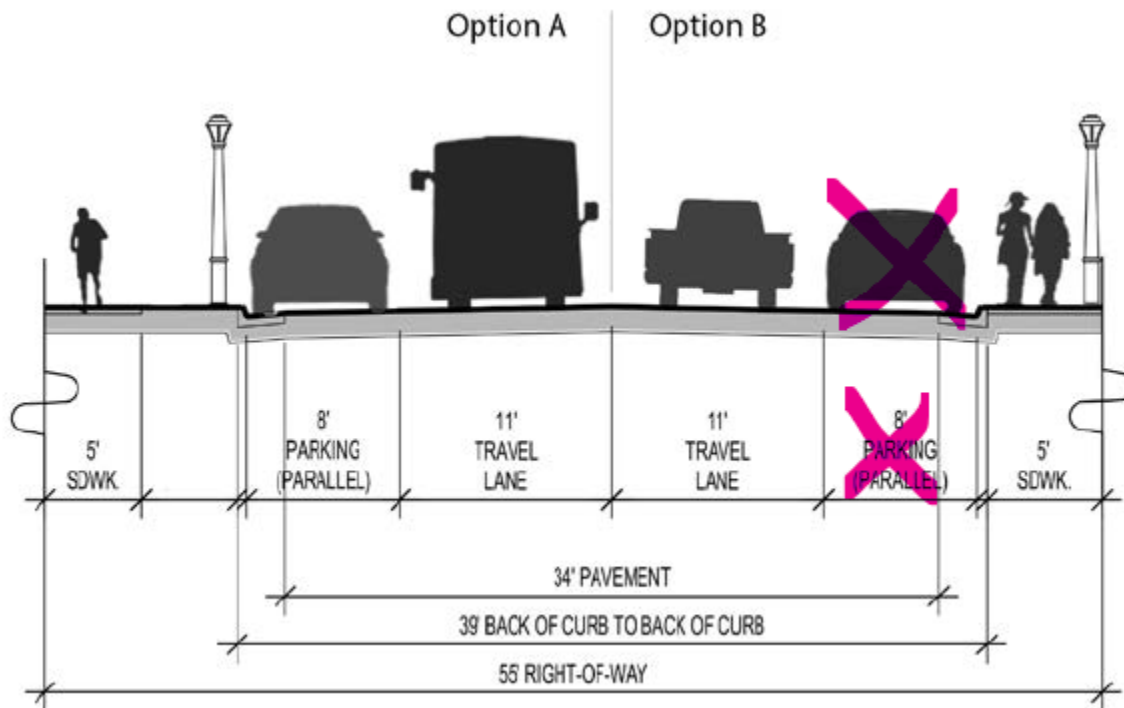
As the temple site has abundant on-site parking, there is no justification for requiring on-street parking along the north side of Temple View Lane. However, width for on-

street parking will be provided on the south side of Temple View Lane. Due to safety reasons (e.g. sight distance around the curve of Temple View Lane), there will be no parking in the intersection area of Temple View Lane and Skyline Drive—the street width is not designed in that area to provide parking on either side.

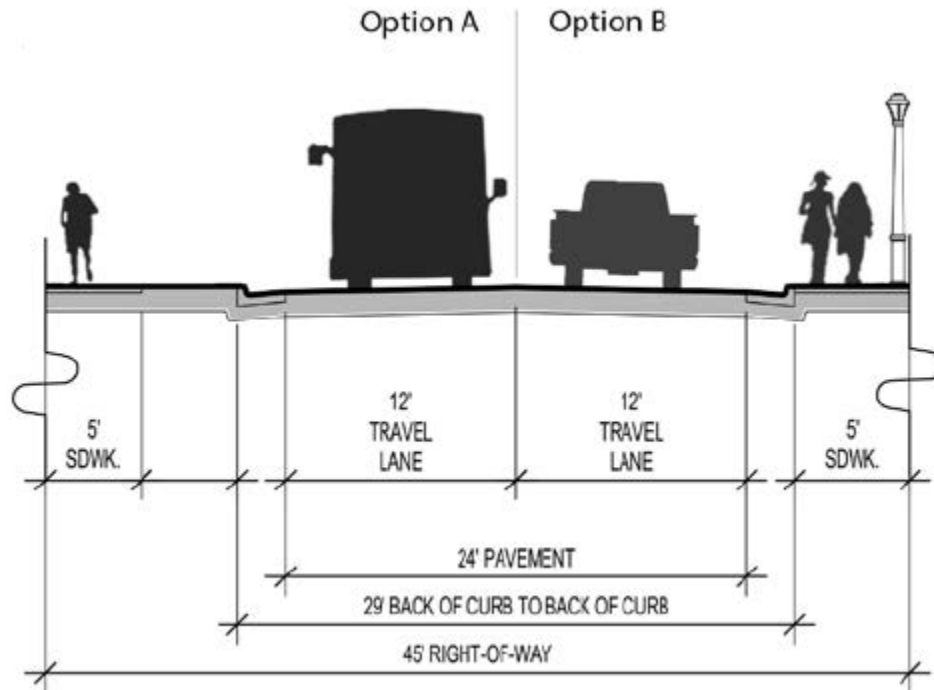
The street profile concepts for Temple View Lane are shown in the master plan, as the Minor Residential Street profile for the “no parking” section, and as the Local Street profile, minus the parking lane on the north side, for the remainder. As the City has allowed in other situations, the cul-de-sac bulb is at an 80-foot diameter based on it being marked and signed for no parking—the large lots that will be located around it will have plenty of room for parking. If desired, additional parking can be required of those large residential lots as part of the subdivision application to create those lots.

Both the Public Works Director and Fire Marshal are agreeable to the street profiles and dimensions proposed.

Local Street Profile:



Minor Residential Street Profile:



What has not entirely been worked out is the timing of when Temple View Lane would become a public street. As initially it would only serve the temple, City staff recommends that it remain private for the time being. If and when the adjacent Nielson property is subdivided, the City could consider at that time whether to accept it as a public street. Due to the potential of it becoming a City street, its construction is being designed, inspected, and certified as if it were a public street.

If Temple View Lane is indeed private for the time being, the property owner will need to grant that area as an access and utility easement to both the City and the Nielson property before the City will accept the City utility infrastructure that occupies that area.

Parking

The proposed site plan contains 140 parking spaces. All of the parking spaces and drive aisles meet City requirements as far as surfacing, dimensions, slopes, ADA spaces, and lighting. It is noted that 140 spaces are much more than what the City of Cody standards recommend, based on the capacity of the temple building and accessory building. Using City ratios, 140 parking spaces is enough parking for a capacity of 420 persons. Yet, based on proposed seating and the ratio of one space per three seats in the assembly areas that would be occupied at any one time, staff would likely come up with only around 50 spaces required, when using City recommended ratios.

However, the City does not impose maximum limits on parking. The abundance of parking will ensure that during occasional events, such as landscaping projects, that parking will be able to occur for large groups of participants without spilling outside of the temple site. It would also accommodate the occasional RV or vehicle with a trailer.

Exterior Lighting

Exterior lighting was discussed previously. However, there is one minor edit needed to the site plan related to exterior lighting. The lamp post shown just northeast of the entry monument sign needs shifted to be outside of the City right-of-way corridor along the east side of the property.

Setbacks and Buffers

The RR zoning of the property specifies a front building setback of 35 feet, a side street setback of 30 feet, a side setback from a property line of 15 feet, and a rear setback of 15 feet. The temple building complies with that those setbacks, as well as applicable lot coverage, and other dimensional standards. The ancillary building is right at the rear setback and side street setback, but complies with the building setbacks.

There are no buffer or screening requirements applicable to this project.

Grading/Storm Water Plan:

The grading and stormwater plan has been prepared by a professional engineer and meets minimum City requirements specified by the Stormwater Management Policy, and is acceptable to the Public Works Director. Stormwater calculations were appropriately based on an undeveloped condition being converted into a fully developed condition for the portion of the property and associated areas that flows onto the property. Out of an extreme abundance of caution, staff expressed concern with infiltrating the stormwater in the retention area at the north end of the site, due to the historical landslide on a nearby portion of that slope. Adding weight and lubrication (water) to a hillside is just something that generally should be avoided. The applicants amended the stormwater plan to avoid infiltration of the collected stormwater on the temple site, as the system is now designed to retain the stormwater in an underground chamber and then discharge it through a piped system into the historical discharge location of the ravine along the east side of the property. The stormwater plan is based on 100-year, 2-hour storm, as specified by Church policy, which greatly exceeds the City's 10-year or 25-year requirements and does not increase discharge rates or amounts for the 100-year, 2-hour design storm. Refer to Sheet C-141 in the Civil Site Plans file on the City website.

It is noted that the most recent version of the grading plan has removed as much fill from the City right-of-way along the east side of the project as possible, per the City's request. Only the fill necessary for the street remains, and the ground maintains a

conservative 3:1 slope where fill does occur. This change minimizes impacts to utilities caused by additional cover.

The one utility that is still performing some calculations regarding how the fill may affect their utility is the Shoshone Municipal Pipeline (SMP). Their 36-inch-diameter pipeline is likely thin-walled through this location, so special precautions may be needed. The SMP manager indicated their intent to work with the applicant, and the applicant is aware of the issue and intends to address it as needed.

Snow Storage

With so much excess parking, snow storage can occur in portions of the parking lot, where it can eventually melt into the stormwater collection system.

Utility Services

It is first noted that the sewer and water mains proposed under Temple View Lane relate to the subdivision of the Nielson property, not necessarily the temple project. However, if those lines are installed early enough for the temple to use them, it could allow for some efficiencies in the water lines, and perhaps other utilities.

While City staff (P.W. and Planning) are generally okay with the utilities as proposed, we are open to modifications that may result from the following requirements and suggestions.

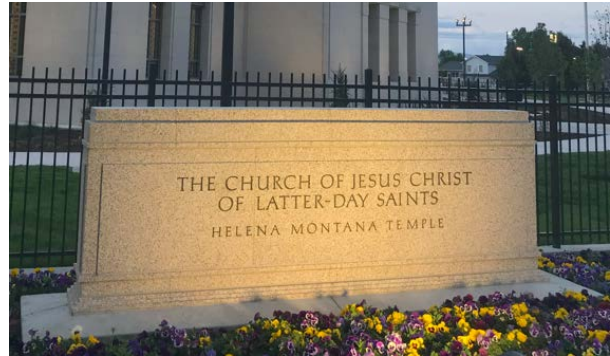
- a) The fire marshal states that one additional fire hydrant should be added to the temple site and one at the end of the cul-de sac. The additional hydrant for the temple site is recommended to be in the island near the fire line valving directly east of the temple building.
- b) If desired, the stormwater piping may be able to be reduced by relying more on gutter flow in the street entrance areas. In addition, the pipe to the ravine seems larger than needed.
- c) Black Hills Energy requests additional separation between the proposed natural gas line and the perimeter fence and electrical line. That could involve adjusting things a few feet, or just moving the gas line to the south side of Temple View Lane.

The electrical plan generally appears fine, but is missing the line from the existing fuse cabinet to the proposed transformer next to Skyline Drive. Also, shift the proposed transformer slightly to allow room for a future sidewalk along Skyline Drive (min. 5 feet behind back of curb.)

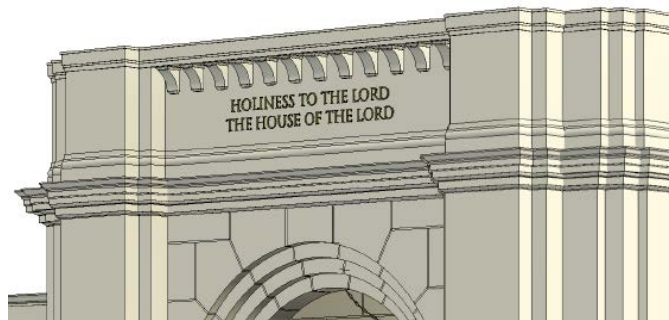
Additional coordination with 3rd party utilities, such as telecommunications is still needed, however the combined route with the electric line is typical.

Signs

The City sign code simply states that all signs for churches must be approved by the Planning and Zoning Board. There are no limits on number, height, or size. At the entrance there would be a monument sign, similar to the Helena temple sign shown here. Staff has no concerns with the sign itself, but would ask that the illumination not be as bright as the Helena sign. Other small directional and convenience signs, such as address numbers, building nameplates, ADA parking signs, etc. would also be installed.



The statement "Holiness to the Lord, the House of the Lord" above the entry of the temple is simply considered constitutionally protected non-commercial free speech.



Garbage Collection

The applicant has verbally stated that they plan to have garbage collection occur at the cul-de-sac bulb on Temple View Lane. However, details have not yet been provided. A dumpster enclosure would be appreciated, but we do not have a specific requirement for the residential zones, other than for multi-family development.

OTHER:

Erosion Control/SWPPP:

The application contains an erosion control plan, which appears acceptable as far as the containment fencing. A stormwater pollution prevention plan (SWPPP), and perhaps permit is required to meet WY DEQ requirements. The applicant is aware and plans to obtain those authorizations as needed—they are not permits issued by the local jurisdiction.

Easements/Right-of-way:

The reconfiguration of the entryway necessitates the property owner obtaining additional access/utility easements and/or right-of-way for the curve in Temple View Lane from the Erica Ashley Nielson Trust. In addition, the stormwater pipe proposed to run to the ravine and discharge on the City right-of-way crosses the Nielson property as well, which will also need an easement. Both parties are aware and plan to execute necessary documents.

It is noted that if and when Temple View Lane becomes a City street, there will need to be a legal acknowledgement from the property owner (Church) of a "right to drain" stormwater from the street through the private stormwater management system on the temple property to the discharge area on City property.

Encroachment permit.

Public Works required an encroachment permit for all work (excavation, landscaping, sidewalk installation, utility installation, etc.) in existing City rights-of-way, to ensure proper insurance and that approved plans are in place for the work. The contractor performing the work is responsible to obtain the encroachment permit(s).

Existing Nielson driveway.

The existing access for the Nielson Driveway will need to be removed or fenced once Temple View Lane is completed, to eliminate the safety issue of two side-by-side approaches. Temple View Lane will be available for use by the Nielsons.

ATTACHMENTS:

Application materials—site plan, elevation drawings, drainage report, etc.

ALTERNATIVES:

Approve or deny the site plan with or without changes.

RECOMMENDATION ON THE SITE PLAN

It is recommended that the Planning and Zoning Board approve the approve the commercial site plan application and signs, subject to the following conditions.

1. The streets are permitted to remain private for the time being, so long as the area of Temple View Lane is dedicated as an access and utility easement for the City of Cody, and as an access easement for the Erica Ashley Nielson Trust property. Any further private agreements between the property owners are up to them. Although the streets would be private, the water and sewer mains in Temple View Lane would be transferred to the City for operation and maintenance.
2. In order for Temple View Lane to have the option of being accepted as a public street in the future, the engineer must have the design approved by public works, and conduct inspections and testing as if it were a public street.
3. The engineered construction plans for all water lines larger than 2-inches in diameter, the sewer pump station, and the sewer main in Temple View Lane must be authorized by WY DEQ prior to construction. As part of that process the City engineer will review and authorize the plans for the City.
4. Prior to issuance of a building permit, make the following edits to the plans:
 - a. (Done) In anticipation of Temple View Lane being a public street, and for safety purposes, add a City standard streetlight at the intersection with Skyline Drive.

It will be fed from the transformer that feeds the existing irrigation pumps next to the canal.

- b. (N/A, going with roll out containers) Add provisions for garbage collection to the site plan for review and approval by the sanitation division. A dumpster pad behind the curb of the cul-de-sac is an option. An enclosure (3-sided unless someone is willing to open the gate on pickup days) installed around the pad would be appreciated. Recommended inside dimensions for a two-dumpster enclosure (one for garbage and one for cardboard recycling) are 18.5' long by 6.5' deep.
- c. (N/A) If the dumpster enclosure is added as contemplated, the sidewalk must be extended to pass around the back of the dumpster and back up against the curb. (A sidewalk easement would be needed for the portion around the back of the dumpster enclosure at such time that the street became public.)
- d. (Pending) Shift the light at the front monument sign off the City right-of-way.
- e. (Done) Add a fire hydrant in the island east of the temple building, closest to the valves.
- f. (Done) Relocate the water meters and the backflow preventer off of the City right-of-way. The area north of the monument sign would seem to work well. Provide details of the meter pits acceptable to Public Works.
- g. (Done) Include a sidewalk ramp where the proposed sidewalk meets Skyline Drive.
- h. (Done) It is recommended that the dry utilities (gas, power, telecommunications) be relocated to the south side of Temple View Lane. Doing so makes them available for the Nielson subdivision, but also avoids several utilities crossings in the City right-of-way along the east side of the temple site, satisfies Black Hills energy on their desired utility separations, and will better match the latest electrical layout plan. Otherwise, shift them as needed to provide the clearances requested. Moving them to the south side would require a 10-foot-wide City utility easement along the south side of Temple View Lane. Also, this and the related electrical work may necessitate relocating the Nielson's private utility lines sooner than currently planned.
- i. (Done, but electric division may want a little more fill than shown for the cabinet north of Temple View Lane) Based on the latest electrical layout designed by the City, adjust the alignment of the intersection with Skyline Drive closer to 90 degrees, in order to provide more room for the electrical boxes that will need to be installed to the south of Temple View Lane, and add fill to the north side of the street to allow the shifted sectionalizing cabinet to be close to street grade. The sectionalizing cabinet will be shifted northwest to the approximate location of the existing fuse cabinet, which will be removed. From that sectionalizing cabinet, new wire will be run to a PM9 switch cabinet (6' by 6') south of Temple View Lane, which will then feed into a sectionalizing cabinet next to it, before running to a sectionalizing cabinet on the south side of Temple View Lane directly south of the transformer pad, and then to the transformer. The PM9

switch cabinet will also need to be located to utilize the wire than runs to the southwest. The electrical boxes and streetlight in that area should be 6 feet or more from the back of the curb along Skyline Drive to allow the option of a future sidewalk. While the trench along Temple View Lane is open, it would be smart to also install 3' electrical conduit to feed back to the contemplated Nielson lot closest to Skyline, and 1 ½" conduit for future streetlights on the street.

- j. (Done) If raw water (irrigation) is anticipated for the Nielson subdivision, the line should be installed under Temple View Lane.
- k. (Done) Show the sewer, water, and if applicable raw water mains under Temple View Lane as extending to beyond the cul-de-sac bulb.
- l. (Done) Valving of the public water main (under Temple View Lane) needs to be added.
- m. (Optional, need not be shown on plans, but can still be coordinated) If the lot layout of the Nielson's subdivision is known, taps should be shown and provided as part of the construction of the sewer and water mains.
- n. (Pending) Provide a location with a more gradual slope off of the north side of the east access to allow utility maintenance vehicles (pickups) wanting to access the City right-of-way the ability to drive off of the paved access, towards the east portion of the City right-of-way.

Additional edits to the plans may be made by the applicant for purposes of increasing efficiency of the utilities or stormwater plan, or addressing in-field changes, if authorized by Public Works. The applicant's engineer plans to make most, if not all, of the above requested edits before the public hearing.

- 5. Prior to issuance of a building permit, obtain all necessary easements from the Erica Ashley Nielson Trust (additional access easement for the curve in Temple View Lane, stormwater pipe easement north of temple site, and an electrical easement for a short segment near the curve in Temple View Lane—or shift the electric line into the R/W).
- 6. Prior to issuance of a building permit, obtain agreement with Shoshone Municipal Pipeline on any plans necessary for protecting the SMP pipeline under the new street improvements, or show that additional protection is not necessary.
- 7. Prior to construction of access improvements in the City right-of-way along the east side of the temple site, enter into a memorandum of understanding with the City, simply outlining that the access on the City right-of-way is a private improvement, with no maintenance responsibility for the City, and that if the right-of-way is ever developed with a public street, the party constructing that street would have the right to remove and/or reconfigure that access as needed, working in good faith with the property owner of the temple site.
- 8. All work within the Skyline Drive and the City right-of-way along the east side of the property requires a street encroachment permit from Public Works. The contractor(s) doing the work is responsible for obtaining the permit(s).

9. Prior to installation of the landscaping, provide an updated landscaping plan that shows the removal/shifting of the trees to be off the City right-of-way, and demonstrates the necessary clearance around the switch gear cabinet.
10. Provide necessary easements within the temple property for the electrical line and switch gear cabinet prior to occupancy of the building.
11. Upon completion, the storm water facilities must be inspected and certified by the applicant's engineer that they were completed according to the approved plans or equivalent, prior to building occupancy.
12. Upon completion of the project, remove or fence/gate the existing approach of the Nielson driveway/canal access off of Skyline Drive. The fence would need to be placed along the right-of-way line, or further from the street.
13. Upon completion of the project ensure that any disturbed areas beyond the landscaped areas that are lacking vegetation are planted with dryland grass seed, or any better alternative method authorized by Public Works, to help prevent weeds and control erosion.
14. Prior to occupancy, provide a Knox (key) box for emergency service/fire department access through the two gates, or other method of emergency entry acceptable to the fire marshal.
15. The project must otherwise comply with the project description, as described in the application and at the Planning and Zoning Board meeting. A building permit must be obtained within five years or this authorization will expire, unless delayed due to legal action, in which case the deadline will be 5 years from the conclusion of the legal action.

PART II

SPECIAL EXEMPTION

Before addressing the Special Exemption Criteria, it is necessary to interpret what effect the Planning, Zoning, and Adjustment Board's adoption of the findings related to the approval of the Conditional Use Permit may have on the applicability of the Special Exemption. Please note that the following is based on memory, and I have not had the chance to fully confirm, as the video from last night's meeting is not available at the time of this report.

When the Board adopted the findings for the conditional use permit on June 15th, the motion included adoption of the findings in the staff report. I read each of those findings in my staff presentation—remember it was that time when you were thinking when is he ever going to finish? A copy is attached. Among those findings was the following:

Principle 3.1.f. Building Heights. Limit the height of new and remodeled construction to respect the existing or desired character of neighborhoods and districts, maintain a consistent scale of development, and preserve scenic views. Finding: The temple building complies with the building height limit for the zone in which it is located.

While there was discussion as to whether the following finding was still pending, I did not remove it from the staff report. I do not believe the Board took any action to remove the finding from the staff report either, so when the Board adopted the conditional use permit findings it was included.

By adopting that finding, the Board has arguably acted to accept the staff recommendation on building height, finding that the Cody Wyoming temple complies with the building height requirements of the City of Cody Code. As such, the special exemption is not necessary.

If further action related to the steeple height is necessary, I, as staff am "resubmitting" the height interpretation application for the Board's consideration, before addressing the special exemption criteria. With the resubmittal, the following facts are presented.

Like all significant decisions related to the temple project, I have not made the recommendation that the temple project complies with the literal language of the zoning code on my own. Before issuing my report to the Board, I had heavily consulted with Scott Kolpitcke, the City attorney, to determine if my height interpretation was the proper interpretation of the plain language. I wanted to make sure it held no biases. I have no interest in the temple project being denied due to me not performing my responsibilities with exactness. He generally agreed with the above describe

interpretation. As such the only applicable section of the definition is section “a”. Here is the definition, as contained in the adopted City of Cody code, and which is the only language that can be considered in defining building height.

BUILDING HEIGHT: Building height refers to the vertical distance between the average finished grade and either: a) the highest point of the coping of a flat roof; b) the deck line of a mansard roof; or c) the height of a point midway between the eaves of the main roof and the highest ridge line of a gable, hip or gambrel style roof. For structures without a roof, building/structure height is the vertical distance from the average finished grade to the highest point of the structure, except those projections otherwise exempted or specified in this title.

For easy reference, the following “Height Interpretation” and “Height Interpretation Notes” sections of the original staff report are included here:

Height Interpretation

The applicant, Haskell Engineering and Architecture, Inc, representing the property owner, The Church of Jesus Christ of Latter-Day Saints, brought forth the temple project and asked the City what permits they needed to construct a temple. The Cody zoning ordinance specified that a Conditional Use Permit was needed, so that was identified. In addition, as City staff initially looked at the language of the zoning code, we were unsure how the applicable height regulations would apply to such an architecturally complex building, so the City also requested a Special Exemption, in the event it was determined that one was needed. For efficiency we prefer that all applications be submitted and considered at once, rather than to get before the Board and have them determine an additional application was needed. Based on the schedule at that time, doing so required that the normal special exemption notice process be followed, which has occurred. However, before considering the Special Exemption application, staff is requesting from the Board an interpretation of whether the proposed temple complies with the applicable height limits.

In my role as City planner, I will state the regulation, do my best to be sure it is properly understood, and then state my understanding of how it applies to the proposal under review.

The Rural Residential zone, in which the temple is proposed, has two height limits—maximum number of stories, which is two, and maximum building height, which is 30 feet above finished grade. Regarding the maximum number of stories, there is only one floor level in the proposed temple, and as

10-6-2: TABLE:

Standard		
		RR
	Maximum number of stories* (excluding basements) and maximum building height*	2 stories and 30' above finished grade

stories are measured from a floor to the ceiling above a floor, the number of stories is one. At one story, the temple building complies with the limit on maximum number of stories.

(Footnote: As a side comment, the one story of the temple would generally be less than 12 ½ feet tall, except for that portion of the ceiling and associated roof assembly that is elevated to accommodate the higher ceilings above the Baptistry and Celestial Room, as well as some adjoining mechanical equipment. That elevated portion of the roof remains below the elevation of the parapet wall that extends 24 feet above the floor level of the building.)

Now we must analyze whether the temple complies with the “maximum building height” standard, which is 30 feet.

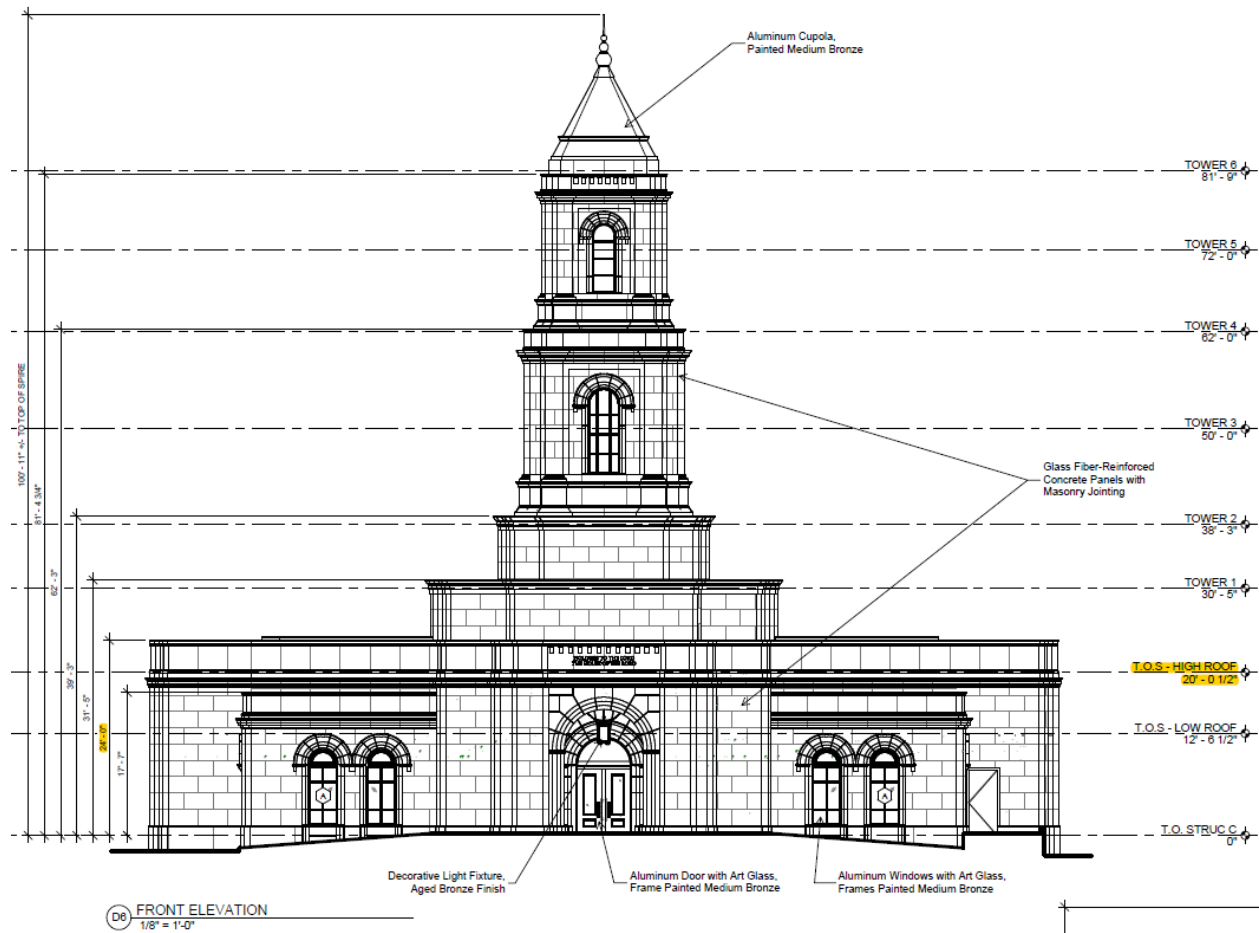
Building height is defined in the Cody zoning code as follows:

BUILDING HEIGHT: Building height refers to the vertical distance between the average finished grade and either: a) the highest point of the coping of a flat roof; b) the deck line of a mansard roof; or c) the height of a point midway between the eaves of the main roof and the highest ridge line of a gable, hip or gambrel style roof. For structures without a roof, building/structure height is the vertical distance from the average finished grade to the highest point of the structure, except those projections otherwise exempted or specified in this title.

The following is how I interpret the literal language of that definition.

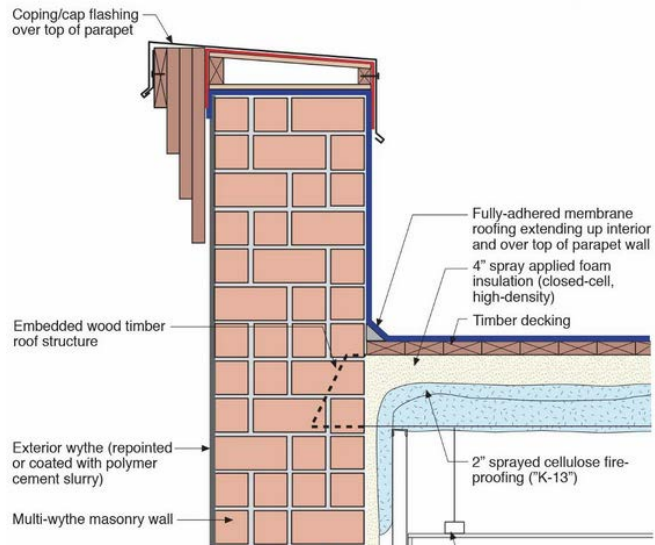
First, notice that building height is not necessarily the highest point of a building. For example, on sloped roofs building height is measured only to the midpoint between the eave and ridge of the main roof. More than one home in the immediate proximity of the proposed temple can be used to illustrate the point. However, some of the materials that have been circulated relating to the temple project have not taken this into account—likely unintentionally. Correct information is necessary for a proper analysis.

Since the proposed temple has a flat style of roof, section “a” of the building height definition is the applicable standard, which is the vertical distance from finished grade to the highest point of coping of the roof. Initially, I did not have detailed information about the interior ceiling height of the temple, nor what components of the building contained a roof. I needed to determine where the roof(s) were located, so that I could determine what was the associated coping, and therefore determine official building height. To what elevation would the one story extend? Would there be a roof on what visually forms the steeple base? Did the ceiling extend up into the steeple? And if so, how far? These were all factors that could affect the building height calculation.

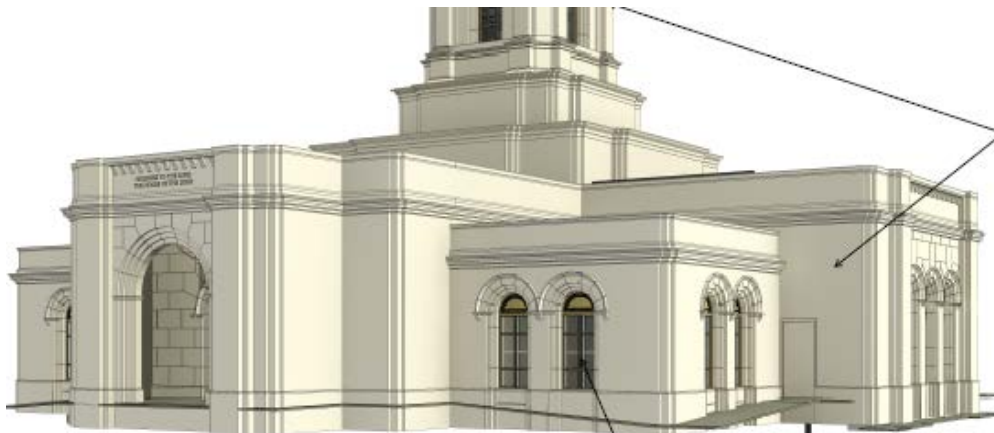


While I have not seen the building permit set of plans for the Cody temple, the architect has recently stated that the roof and steeple concept used for the Cody temple is almost exactly the same as the Helena temple, differing only in the shape of the steeple. What I discovered while viewing a time-lapse video of the Helena temple construction is that there is no roof or skylight (for those familiar with the Billings temple skylight) above the flat membrane roof that covers the main level of the building. The panels that visually form the base of the temple steeple are actually suspended by a steel framework above the roof of the temple and are entirely open vertically—rain and snow would fall all the way to the roof of the main level, which is below the 24-foot-tall parapet wall. The steeple base has no roof. The flat roof on the temple is immediately above the ceiling of the occupied space of the main level. No portion of the steeple contains space that is considered habitable or that would be occupied.

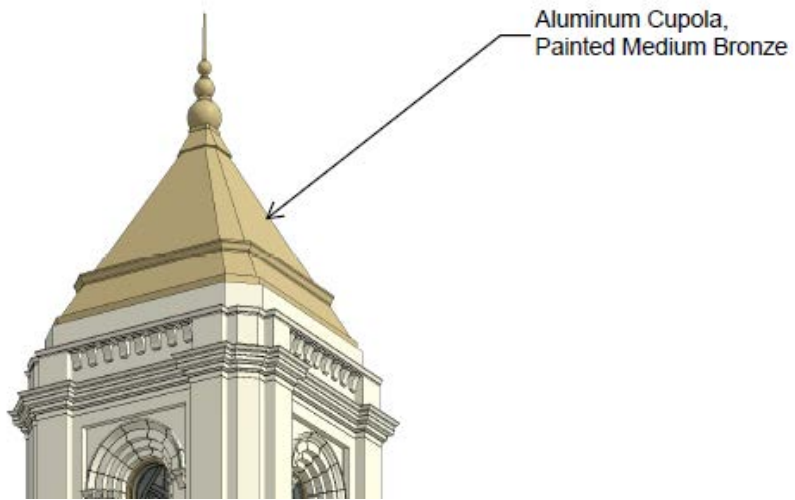
Now that we know the location of the flat roof, the next question for determining “building height” of the temple is “What is the highest point of the coping” associated with that flat roof? Coping is the weatherproof flashing that protects the top of a parapet wall—see insert (*Building Science.com*, accessed 6.2.2023). A parapet is “a low wall along the edge of a bridge, a roof, etc. to stop people from falling.” (*oxfordlearnersdictionaries.com*, accessed 6.1.1023)



In the case of both the Helena and Cody temples, the only parapet walls are found around the perimeters of the buildings—the panels that form the visual base of the steeple are not parapets, as they are suspended above the roof. Therefore, the coping on the 24-foot-tall parapet walls of the proposed temple constitutes “the highest point of the coping” to which building height is measured.



The cupola is technically a component of the steeple, but in the shape of a hip style roof, which may at first suggest that building height should consider the cupola. However, the cupola does not form the “main roof” of the building. Its size is only a small fraction of the flat roof below. As such, part “c” of the building height



definition—shown in context below, is not applicable, due to the cupola not being the main roof.

BUILDING HEIGHT: Building height refers to the vertical distance between the average finished grade and either: a) the highest point of the coping of a flat roof; b) the deck line of a mansard roof; or c) the height of a point midway between the eaves of the main roof and the highest ridge line of a gable, hip or gambrel style roof...

The conclusion is that the official building height of the proposed Cody Wyoming temple will be approximately 25-26 feet—the distance from average finished grade to the highest point of coping of the parapet wall of the flat roof, which height complies with the maximum 30-foot building height limit of the Rural Residential zone in which the temple is proposed. The applicant is encouraged to submit documentation for the Cody temple to verify the presumptions upon which this determination is based.

To determine whether the Planning and Zoning Board agrees with this analysis and conclusion, I believe a motion should be made and voted on. The following draft motion is provided for your consideration.

Proposed Motion:

That the Board finds that the proposed Cody Wyoming temple of The Church of Jesus Christ of Latter-Day Saints complies with the Cody zoning regulations for maximum number of stories, and maximum building height, as it;

- a) Does not exceed two stories; and,

- b) Does not exceed 30 feet in “building height” as defined by the Cody zoning ordinance.

Furthermore, the Board rules that as the height requirements are met, the Special Exemption application is unnecessary for the Cody temple proposal.

If the above motion is approved, a staff analysis of the Special Exemption is unnecessary, so the analysis is not provided at this time. If the motion fails, I will provide additional information as needed.

Height Interpretation Notes:

- a) The adopted building code is consistent with the proposed building height conclusion. Attached are comments from the Cody Building Official and Park County Fire Marshal that conclude that the steeple does not constitute a “story” under the building code, but is a “rooftop projection”, and that rooftop projections are independent of the building height limitations of the building code. The building code allows rooftop projections, including towers and steeples of any height, so long as they are constructed of and supported by noncombustible materials and otherwise meet standards for structural, wind and seismic design. Here are links to the code references cited in their attached comments: [Chapter 5 Section 504](#) and [Chapter 15 Section 1511](#).
- b) The second portion of the “building height” definition that relates to structures without a roof is not applicable to the steeple, as the steeple is part of the temple building, not a separate structure.
- c) The fact that Cody’s zoning ordinance definition of building height does not specify or require items that extend above the roof to be included in determining building height is not uncommon. The concept is there and the practice is relatively common in other zoning codes. For example, see the caption from Cheyenne’s development (zoning) code to the right.

ARTICLE 1 GENERAL PROVISIONS

The height limitations of this Title, with the exception of the airport height restrictions and unless specified otherwise, shall not apply to church spires, belfries, cupolas, domes not intended for human occupancy, flag poles, light poles, monuments, water towers, transmission towers, smokestacks, chimneys, derricks, antennas and aerials.

- d) Perhaps a note about the history of building height regulation would provide additional context. The roots of building height regulation are found in the earliest building and zoning codes as a way to address the need to provide adequate light and air. They were developed because the developers of tenement buildings did not consider the need for light and air in their building designs, much less the impact of their buildings to residents of neighboring properties, which led to all sorts of sanitation and health issues. By imposing building heights and building setbacks between buildings and from neighboring property lines, residents could have access to adequate amounts of clean air and sunshine. With the proposed temple steeple being almost 400 feet away from even the nearest neighbor, it is problematic to claim that the height of the temple spire impacts the ability of any neighboring resident to receive adequate light and air to avoid sanitation and health issues.
- e) Considering the above purpose, building height limits are based on minimum setbacks. For example, in the rural residential zone, side yard setbacks from lot lines are to be at least 15 feet—all other residential zones only have a 5-foot minimum side yard setback. Two structures on neighboring lots, could then be as close as 30 feet. With building height at 30 feet the RR zone defines adequate light and air as being satisfied by only that area above about 45-degrees horizontal, measured from the base of the one house to the height of the other. The combination of the proposed building height and setbacks for the temple are nowhere near that ratio or of that level of impact.
- f) Note that removal of the cupola covering, leaving the underlying steel framework exposed, is an option and would technically eliminate any remaining claim that the cupola must be considered in the building height determination, thereby allowing the steeple to otherwise be constructed exactly as proposed. However, for architectural purposes I do not recommend it as it would introduce a modern architectural style to an otherwise classical design. This point is included solely to demonstrate how it would be better to amend the code as suggested in “c)” above, so as to avoid such trivialities.
- g) The interpretation is consistent with how building height would be measured if the temple had a sloped roof, rather than the flat roof—the steeple would be excluded from the building height calculation, as for sloped roofs, building height is from finished grade to the midpoint of the main sloped roof.
- h) The analysis of building height is based on the strict language of the definition.