

# **CODY PLANNING, ZONING & ADJUSTMENT BOARD**

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## **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:

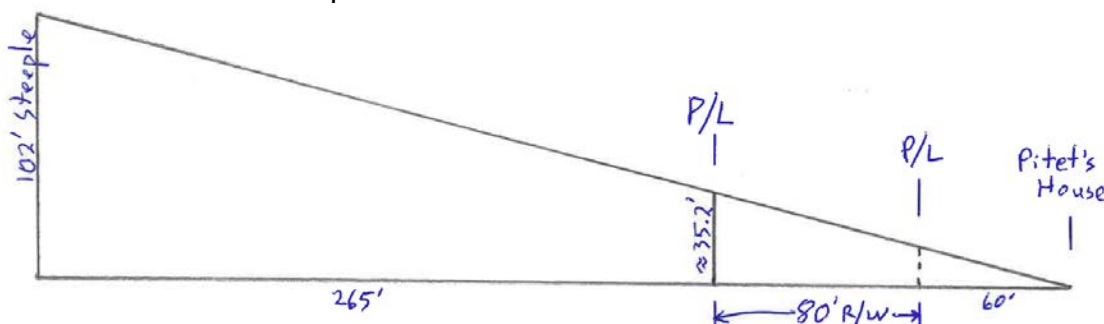
- i) Playfields, such as the softball fields towards the east end of Sheridan Avenue, with six, 72-foot-tall light poles providing playfield lighting much brighter than the lighting of the proposed temple, and parking capacity of at least 150 spaces—again greater than the proposed temple. As a permitted 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  $\frac{1}{4}$  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 3<sup>rd</sup> 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.