



PLANNING + NEIGHBORHOOD SERVICES

Land Use Review

Appeal of a City Planning Commission Decision to City Council

Appeal of a City Planning Commission Decision to City Council

Complete this form if you are appealing a **City Planning Commission, Historic Preservation Board or Downtown Review Board Decision** to City Council.

Appellant Contact Information

Jennifer T. Kuhn, Esq. c/o Michael D. Kuhn, Esq.

719-651-5827

Name of Appellant

Phone Number

12640 Woodruff Drive, Colorado Springs, CO 80921

Address (Include City, State, ZIP)

mkuhn@klcs.law; jennifertkuhn@gmail.com

Email

Project Information

DEPN-25-0056 (Colorado Springs Temple); APPL-25-0008

Project Name

2396 Veneto Way

Site Address (TSN if not yet addressed)

Development Plans; Denial of Appeal from Planning Commission

Type of Application Being Appealed

DEPN-25-0056 (Pre-Application Records PRE-25-0058); APPL-25-0008

All File Numbers Associated with the Application

Tamara Baxter

12/10/25

8.A. (Planning Comr

Project Planner's Name

Hearing Date

Item Number on Agenda

Appellant Authorization

The signature(s) below certifies that I (we) is(are) the authorized appellant and that the information provided on this form is in all respects true and accurate to the best of my (our) knowledge and belief. I(we) familiarized myself(ourselves) with the rules, regulations and procedures with respect to preparing and filing this petition. I agree that if this request is approved, it is issued on the representations made in this submittal, and any approval or subsequently issued building permit(s) or other type of permit(s) may be revoked without notice if there is a breach of representations or conditions of approval.

Jennifer T. Kuhn

Signature of Appellant

12/11/25

Date



PLANNING + NEIGHBORHOOD SERVICES

Land Use Review

Appeal of a City Planning Commission Decision to City Council

Appeal Submittal Should Include:

All Items Are Required

- Completed Appeal Form (this document).
- Evidence of "Affected Party" Status – check the box below and provide justification for the chosen box.
- Notice of Appeal Statement (see requirements on page 3 of this document).
- \$176 fee payable to the City of Colorado Springs.

Submit all 4 items above to into the City Clerk's Office at **30 South Nevada, Colorado Springs, Colorado**. Appeals are accepted for 10 days after a decision has been made. Submittals must be received no later than 5pm MST on the due date of the appeal. Incomplete submittals and / or submittals received after 5pm or outside of the 10-day window will not be accepted. If the due date for the submittal falls on a weekend or federal holiday, the deadline is extended to the following business day no later than 5 pm MST.

If you need additional assistance with this application, please call the Land Use Review front desk at (719) 385-5905.

Affected Party Status

Please indicate, per UDC Subsection 7.5.415.A(1)(a) (Right to Appeal), which of the definitions of "Affected Party" that applies to the Appellant.

- (1) The applicant for the decision being appealed;
- (2) The owner or tenant of a lot or parcel of land located within one thousand (1,000) feet of the subject lot; or
- (3) Any owner or tenant of a lot or parcel of land located within three (3) miles of the subject property who has preserved standing by:
 - (a) Testifying at the public hearing on the application;
 - (b) Submitting written comments prior to the public hearing on the application; or
 - (c) In the case of applications approved by the Manager or an administrative official, submitting written comments to the Manager or administrative official during the comment period before the Manager or administrative official's action.



PLANNING + NEIGHBORHOOD SERVICES

Land Use Review

Appeal of a City Planning Commission Decision to City Council

Notice of Appeal

UDC 7.5.415.A.2 (Notice of Appeal):

- (1) The specific provision(s) of this UDC that is the basis of the appeal;
- (2) Which of the following criteria for reversal or modification of the decision is applicable to the appeal:
 - (a) The decision is contrary to the express language of this UDC;
 - (b) The decision is erroneous; or
 - (c) The decision is clearly contrary to law; and
- (3) Describe how the criteria for the relevant application have or have not been met.

BEFORE THE CITY COUNCIL OF COLORADO SPRINGS

In the Matter of the Appeal of the Planning)
Commission's Denial and Modification of)
the Administrative Approval of Project No.) Case No: APPL-25-0010
DEPN-25-0056 (Colorado Springs Temple))
in APPL-25-0008)

Appellant: Jennifer T. Kuhn
12640 Woodruff Drive
Colorado Springs, CO 80921

Project: Colorado Springs Temple
Project No.: DEPN-25-0056
Appeal No: APPL-25-0008
Address: 2396 Veneto Way
Colorado Springs, CO 80921

NOTICE OF ADMINISTRATIVE APPEAL TO CITY COUNCIL

Dated: December 11, 2025.

Michael D. Kuhn
KLCS PC
431 North Cascade Avenue, Suite 1
Colorado Springs, CO 80903
(T): (719) 215-8000
Email: mkuhn@klcs.law
Counsel for Appellant Jennifer T. Kuhn

Appellant Jennifer T. Kuhn (“Appellant”), by and through counsel, KLCS PC, submits this Notice of Administrative Appeal to City Council as follows:

I. DECISION BEING APPEALED AND BASIS FOR APPEAL

This appeal challenges the December 10, 2025 decision of the Colorado Springs Planning Commission denying Appellant’s administrative appeal in APPL-25-0008 and modifying the prior administrative approval of Project No. DEPN-25-0056 (the “Project”).

The Project—commonly known as the Colorado Springs Temple—consists of an 18.6-acre parcel located at 2396 Veneto Way, Colorado Springs, CO 80921, and is surrounded by residential neighborhoods. The Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints (“Applicant”) owns the parcel. At issue in this appeal is a proposed 140½-foot spire that Applicant intends to construct and illuminate 24 hours per day, year-round.

Appellant lives within three miles of the Project site and timely submitted written comments to the administrative official objecting to the proposed spire height and illumination. Appellant specifically argued that the proposed spire is inconsistent with the City’s Uniform Development Code (“UDC”) and fails to comply with UDC § 7.4.203(B)(2), which mandates that any spire exceeding applicable height limitations be designed or screened to minimize visibility from residential neighborhoods.

On November 6, 2025, City Planning Supervisor Tamara Baxter approved the Project without imposing any visibility-mitigation conditions. That approval authorized a structure more than three times the maximum height otherwise permitted under the UDC yet contained no findings, analysis, or enforceable conditions demonstrating compliance with UDC § 7.4.203(B)(2).

On November 10, 2025, Appellant timely appealed the administrative decision to the Colorado Springs Planning Commission. Appellant was, and remains, an “affected party” because she resides within three miles of the Project site and submitted written comments to the administrative official during the comment period preceding the administrative action. Copies of those letters were attached to the notice of appeal filed with the Planning Commission and are attached hereto.

On December 10, 2025, the Planning Commission held a public hearing on the appeal. During the hearing, the Commission requested formal advice from the City Attorney on the applicability of UDC § 7.4.203(B)(2) to the proposed spire. After a recess, the City Attorney opined that Applicant was required to comply with the mandates of UDC § 7.4.203(B)(2)—specifically, by designing the spire to minimize visibility to nearby residential neighborhoods.

The Planning Commission then voted 7–1 to deny the appeal. However, the Commission modified the administrative approval by imposing two conditions on the spire: (1) that it be painted a matte color; and (2) that the top portion of the spire (approximately 17 feet) not be illuminated, except as required for lighting by the Federal Aviation Administration.

The Commission otherwise left intact approval of a 140½-foot spire, including illumination of the remainder of the spire, notwithstanding the UDC’s mandatory requirement that features exceeding district height limits be “designed or screened to minimize visibility” from surrounding residential properties.

Appellant timely submits this Notice of Administrative Appeal to the City Council.

II. GOVERNING LAW: THE UDC REQUIRES MINIMIZATION OF VISIBILITY

The Project site is zoned MX-N (Mixed-Use Neighborhood Scale), which imposes a maximum structure height of 45 feet. UDC Table 7.4.2-F authorizes limited height exceptions for certain architectural or functional elements, including religious spires, provided that the largest horizontal cross-section of the spire does not exceed five percent of the footprint of the primary structure from which it arises. There is no dispute that Applicant’s proposed spire satisfies the five-percent footprint limitation in Table 7.4.2-F.

The governing provision at issue is UDC § 7.4.203(B)(2), which states:

Building features that extend beyond the maximum building height pursuant to Table 7.4.2-F shall be designed or screened to minimize visibility from the R-E, R-1 9, R-1 6, R-2, and R-Flex Low zone districts, and from any portion of a PDZ district developed or designated for attached or detached single-family or two-family dwelling structures.

Appellant argued before the Planning Commission that this visibility-mitigation requirement applies here because the proposed spire extends beyond the 45-foot height limit applicable in the MX-N zone. In other words, the phrase “maximum building height” refers to the zoning district’s height ceiling. Under that interpretation, once a structure relies on Table 7.4.2-F to exceed the district height limit, § 7.4.203(B)(2) mandates that it be designed or screened to minimize visibility from surrounding residential districts.

Applicant disagreed, asserting that § 7.4.203(B)(2) imposes no requirements because the spire complies with the five-percent footprint exception in Table 7.4.2-F. Under Applicant’s view, the visibility-mitigation requirement applies only when a feature exceeds height limits prescribed in the Table—an interpretation that would effectively nullify the provision.

During the hearing, the Planning Commission sought formal guidance from the City Attorney. After recessing to review the issue, the City Attorney adopted Appellant’s interpretation: a building feature permitted under Table 7.4.2-F that exceeds the applicable zoning height limit must nonetheless comply with § 7.4.203(B)(2) by being designed or screened to minimize visibility from residential zones. This interpretation accords with the plain language and purpose of the UDC.

As the City Attorney recognized, accepting Applicant’s interpretation would largely render § 7.4.203(B)(2) meaningless. For example, Table 7.4.2-F exempts television and CB radio antennas from all height limitations; under Applicant’s view, such structures would require no mitigation measures of any kind, even when towering above residential areas—an outcome at odds with the UDC’s stated design and compatibility objectives.

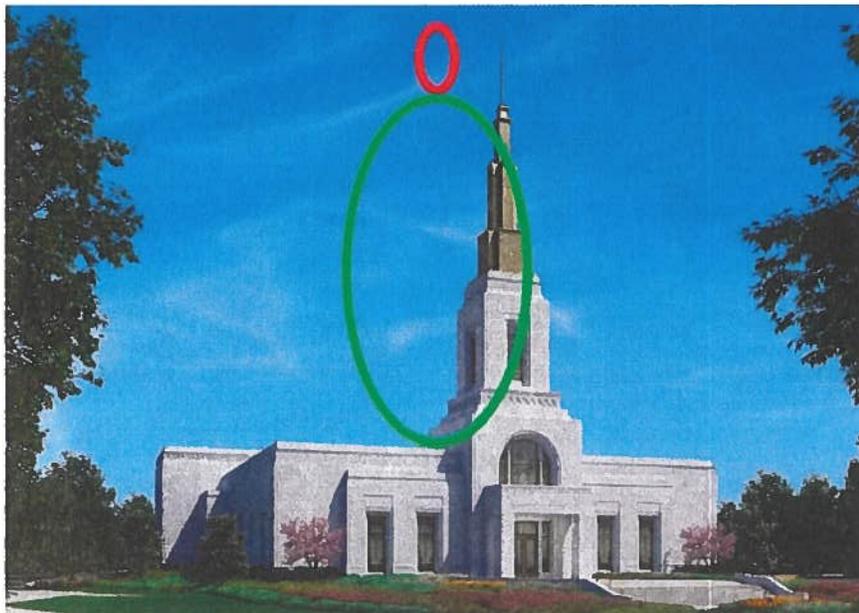
III. THE SPIRE REMAINS UNREASONABLY HIGH AND CONTINUES TO MAXIMIZE VISIBILITY.

The spire fails to comply with the UDC even with the Planning Commission’s modifications. A structure standing 140½ feet in a low-rise residential context is, by definition, highly visible at long range. Nothing in the Commission’s partial prohibition of illumination at the top of the spire cures this fundamental incompatibility with UDC § 7.4.203(B)(2).

The Commission’s condition prohibiting illumination on only the uppermost 17 feet does not satisfy the UDC’s mandate that features exceeding district height limits be “designed or screened to minimize visibility” from residential zones. Even without illumination, the spire remains visually dominant. The record contains no evidence of any materials, massing, screening, or design strategies that could meaningfully reduce visibility of a structure that exceeds the MX-N height limit by nearly 100 feet.

Moreover, illumination of the remainder of the spire—still well over 120 feet—exacerbates its visual prominence. Continuous lighting increases contrast, expands the radius of nighttime visibility, and heightens the spire’s visual dominance over nearby neighborhoods. No findings or analysis support any conclusion that visibility has been minimized. To the contrary, the Planning Commission’s own modification acknowledges that illumination heightens visibility, yet it allowed illumination of the vast majority of the spire.

The graphic below demonstrates that the Planning Commission’s modification does not bring the Project into compliance with the UDC’s mandatory standard, and that the vast bulk of the spire remains entirely unmitigated:



In addition, the UDC does not authorize unrestricted height increases simply because a feature qualifies for a height exception under Table 7.4.2-F. Any permitted exceeding of the district height limit is expressly conditioned on demonstrated compliance with § 7.4.203(B)(2)'s visibility-minimization requirements. A 140½-foot spire in a residential setting cannot satisfy that requirement as a matter of plain language and common sense. The administrative approval and the Commission's modified decision contain no findings, no analysis, and no enforceable conditions demonstrating that visibility has been minimized in any meaningful way.

IV. THE PROPOSED LIGHTING DOES NOT COMPLY WITH UDC § 7.4.1203(3)(c)

Members of the Planning Commission also noted that the proposed lighting of the spire appeared to violate UDC § 7.4.1203(3)(c) because the illumination would project upward without obstruction. That section provides:

A lighting fixture may beam light upward only if all upward light is reflected back down by a canopy, roof, or other such structure.

This standard prohibits upward-directed or outward-projected illumination—precisely the type of lighting proposed for the spire. The concern raised by the Commissioners underscores an additional, independent basis on which the spire fails to comply with the UDC, irrespective of the height and visibility issues addressed under § 7.4.203(B)(2).

Appellant agrees with the concerns expressed by the Commissioners. However, the Planning Commission's modifications to the administrative approval do not resolve the UDC § 7.4.1203(3)(c) violation. The Commission merely prohibited illumination of the uppermost portion of the spire. Nothing in the modification requires that any upward-directed light illuminating the remainder of the spire be reflected back down by a canopy, roof, or comparable structure, as the UDC expressly mandates.

In short, even as modified, the approval permits upward-projected lighting in direct conflict with UDC § 7.4.1203(3)(c).

V. RESPONSE TO APPLICANT'S RLUIPA ARGUMENTS

Applicant argued below that it is entitled to construct a 140½-foot spire irrespective of the UDC's express requirements, invoking the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. §§ 2000cc *et seq.*

Applicant is wrong, as detailed in Appellant’s written comments. Nothing in RLUIPA prevents the City from applying neutral, generally applicable zoning provisions that serve legitimate governmental purposes such as preserving neighborhood character, ensuring visual harmony, and maintaining aesthetic consistency. A requirement that a structure exceeding height limits be designed to minimize visibility is the very type of neutral aesthetic and land use regulation that courts have consistently upheld as permissible and not a “substantial burden” on religious exercise. Even in the case cited by Applicant involved a substantial reduction in the proposed spire height to achieve compatibility with surrounding development—precisely the type of compromise the City failed to require here

VI. RELIEF REQUESTED AND RESERVATION OF RIGHTS

The Planning Commission’s decision to deny the appeal and modify the administrative approval of the Project remains contrary to the express language of the UDC, erroneous, and clearly contrary to the law.

Accordingly Appellant respectfully requests that the City Council:

- A. Reverse the Planning Commission’s action;
- B. Remand with directives requiring full compliance with UDC § 7.4.203(B)(2), including enforceable conditions governing structure height, massing, material reflectivity, lighting, and any design modifications necessary to meaningfully minimize visibility; and
- C. Vacate approval of any illumination of the spire as inconsistent with the UDC.

Appellant expressly reserves all rights, including rights to seek judicial review under C.R.C.P. 106(a)(4).

Dated: December 11, 2025.

KLCS PC

/s/ Michael D. Kuhn
Michael D. Kuhn, #42784

Counsel for Appellant Jennifer T. Kuhn

COLORADO SPRINGS PLANNING COMMISSION

Appellant: Jennifer T. Kuhn
12640 Woodruff Drive
Colorado Springs, CO 80921

Project: Colorado Springs Temple
Project No.: DEPN-25-0056
Address: 2396 Veneto Way
Colorado Springs, CO 80921

Administrative Approval Date: November 6, 2025

NOTICE OF APPEAL OF ADMINISTRATIVE DECISION

Appellant Jennifer T. Kuhn (“Appellant”), by and through counsel, KLCS PC, submits her Notice of Appeal of Administrative Decision as follows:

I. DECISION BEING APPEALED AND BASIS FOR APPEAL

This appeal challenges the administrative approval of Project No. DEPN-25-0056, commonly known as the Colorado Springs Temple, which authorizes a 140½-foot illuminated spire—roughly the height of a commercial wind turbine—on an 18.6-acre parcel located at 2396 Veneto Way, Colorado Springs, CO 80921. The property is owned by the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints (“Applicant”).

Appellant Jennifer T. Kuhn owns 12640 Woodruff Drive, located within three miles of the site. By letters dated October 14 and October 25, 2025, she submitted written objections emphasizing that the Unified Development Code (“UDC”) expressly requires architectural features exceeding height limits in residential zones to be “designed or screened to minimize visibility.” The Applicant’s proposal does the opposite—its spire is deliberately designed to be visually dominant, continuously illuminated, and unshielded.

Despite these objections, on November 6, 2025, City Planning Supervisor Tamara Baxter approved the project without imposing any visibility-mitigation conditions. That approval authorizes a structure more than three times the maximum height permitted in this residential context, yet contains no findings, analysis, or enforceable conditions showing compliance with UDC § 7.4.203(B)(2).

The City's development standards are clear: any structure exceeding the district height limit must be either screened or designed to minimize visibility from surrounding residential properties. The Applicant did neither, and the City treated this mandatory requirement as optional. That is a plain legal error.

This appeal does not challenge the religious use of the property or the construction of a temple. It challenges only the City's failure to enforce neutral, generally applicable development standards that protect residential character and visual harmony.

The approval must be reversed and remanded because it disregards the plain language of the UDC, offers no analysis explaining how a 140½-foot spire is reasonable, and imposes no enforceable measures to mitigate its visibility. Accordingly, the decision is (a) contrary to the express language of the UDC; (b) erroneous; and/or (c) clearly contrary to law. The approval effectively nullifies the UDC's visibility safeguards, undermines the integrity the City's zoning framework, and cannot stand.

II. GOVERNING LAW: THE CODE REQUIRES VISIBILITY MINIMIZATION

UDC Table 7.4.2-F permits certain architectural features, including spires, to exceed standard height limits under specific conditions. But Table 7.4.2-F does not operate in isolation. UDC § 7.4.203(B)(2) provides that architectural features permitted to extend beyond the maximum building height shall be designed or screened to minimize visibility from nearby residential districts. This requirement is mandatory. Because the Applicant proposed no screening, the Applicant must show that its design minimizes visibility. The approval contains no analysis, no visibility study, no material specifications, and no enforceable conditions reflecting such minimization.

III. THE APPROVED DESIGN IS UNREASONABLY HIGH AND MAXIMIZES VISIBILITY

The design of the spire accentuates visibility. Its extraordinary height is not softened by massing, parapet integration, or screening. Although the Applicant suggested the use of matte materials, no enforceable conditions were included in the approval. There are no binding finish specifications, no LRV data, no final color selection, and no lighting restrictions. Without enforceable conditions, the spire may be reflective, illuminated, and visually dominant both day and night. A structure designed to be seen from great distance cannot be said to minimize visibility.

IV. RESPONSE TO APPLICANT'S RLUIPA ARGUMENTS

Applicant argued below that it is entitled to construct a 140½-foot spire irrespective of the UDC's express requirements, invoking the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. §§ 2000cc *et seq.* Applicant is wrong, as detailed in Appellant's written comments. Nothing in RLUIPA prevents the City from applying neutral, generally applicable zoning provisions that serve legitimate governmental purposes such as preserving neighborhood character, ensuring visual harmony, and maintaining aesthetic consistency. A requirement that a structure exceeding height limits be designed to minimize visibility is the very type of neutral aesthetic and land-use regulation that courts have consistently upheld as permissible and not a "substantial burden" on religious exercise.

Even in the case cited by Applicant involved a substantial reduction in the proposed spire height to achieve compatibility with surrounding development—precisely the type of compromise the City failed to require here.

V. RELIEF REQUESTED AND RESERVATION OF RIGHTS

Appellant respectfully requests that the Planning Commission:

- Reverse the project approval; or
- Remand with directives requiring compliance with UDC § 7.4.203(B)(2), including enforceable conditions governing finish and material reflectivity, color specifications, lighting limits, and height or mass modification necessary to minimize visibility.

Appellant reserves the right to appeal to City Council and seek judicial review under C.R.C.P. 106(a)(4). Appellant has attached certain relevant documents including Appellant's letter the approval letter.

Dated: November 10, 2025.

KLCS PC

/s/ Michael D. Kuhn

Michael D. Kuhn, #42784

431 North Cascade Avenue, Suite 1

Colorado Springs, CO 80903

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Email: mkuhn@klcs.law

Counsel for Appellant



431 N. CASCADE AVENUE, STE. 1
COLORADO SPRINGS, COLORADO 80903
TELEPHONE: (719) 215-8000
FAX: (719) 457-5366

Michael D. Kuhn
Email: mkuhn@klcs.law

October 14, 2025

Via email – tamara.baxter@coloradosprings.gov

Tamara Baxter
Planning Supervisor – North Planning Area Team
Planning Department
City of Colorado Springs

Re: Public Comment re: Colorado Springs Temple
2396 Veneto Way, Colorado Springs, CO 80921
DEPN-25-0056

Dear Ms. Baxter:

This firm represents Jennifer T. Kuhn, owner of the real property located at 12640 Woodruff Drive, Colorado Springs, CO 80921, situated within three miles of the proposed development of a Colorado Springs Temple at 2396 Veneto Way, Colorado Springs, CO 80921 (the “Project”). Please accept this correspondence as Mrs. Kuhn’s formal comments regarding the Project and its compliance with the Colorado Springs Municipal Code and the Unified Building Code (“UBC”)

1. Applicant’s Proposed 140½-Foot-Tall Spire Fails to Address the Screening Requirements Set Forth in Colorado Springs Unified Building Code § 7.4.203(B)(2)

The Applicant proposes a temple featuring a spire reaching 140½ feet in height—roughly the size of a large wind turbine. This proposed spire exceeds the 40-foot maximum building height permitted for mixed-use neighborhood zoning under the UBC.

UBC § 7.4.203(B) governs exceptions to the height limitations, stating:

[N]o building or structure or part of a building or structure shall exceed the maximum building height within any zone district as shown in Tables 7.4.2-A through D, unless authorized in Table 7.4.2-F[.]

Tamara Baxter
October 14, 2025
Page 2 of 3

Relevant here, Table 7.4.2-F allows for religious “spires and towers” provided they do not exceed 5 percent of the footprint of the primary structure from which they arise.

However, UBC § 7.4.203(B)(2) further mandates that “building features that extend beyond the maximum building height pursuant to Table 7.4.2-F **shall be designed or screened to minimize visibility** from the R-E, R-1 9, R-1 6, R-2, and R-Flex Low zone districts, and from any portion of a PDZ district developed or designated for attached or detached single-family or two-family dwelling structures.” (Emphasis added).

While the Applicant cites the Table 7.4.2-F exception, **it fails entirely to address the design and screening requirements of UBC § 7.4.203(B)(2)**. See Westwood Project Statement, p. 8. Indeed, the Applicant’s plans do the opposite, proposing illumination of the spire—even at night—and renderings depict the spire painted in a reflective metallic gold color. Both illumination and highly reflective finishes directly contradict the code’s mandate to minimize visibility.

Mrs. Kuhn objects to the proposed spire because it does not comply with UBC § 7.4.203(B)(2). At a minimum, the Applicant should be required to:

- Prohibit illumination of the spire, except for lighting mandated by governmental authorities such as the FAA. Any permitted lighting should be soft, downward-directed, and minimally intrusive.
- Utilize materials and colors that blend with the sky or surrounding environment, employing earth tones with non-reflective or matte finishes to avoid glare.
- Screen the lower portions of the spire using roof parapets and mature landscaping, ensuring that the structure does not dominate the skyline of nearby residential districts.
- Significantly reduce the proposed height of the spire.

Failing to meet these screening and visibility requirements is contrary to the express language of the UBC, legally erroneous, and inconsistent with municipal code intent. Mrs. Kuhn submits these comments and expressly reserves her right to appeal any approval of the proposed spire to the Colorado Springs Planning Commission, the City Council, and to the District Court via Colo. R. Civ. P. 106.

2. Applicant's Proposal Does Not Adequately Address Traffic Concerns

The Project proposes a large religious facility in the midst of a residential neighborhood, which will generate substantial traffic concentrated at predictable times, particularly Sundays and other major religious observances.

Key concerns include:

Single Access Point: The Applicant currently proposes only one access point on Veneto Way, which is a local residential street. This creates a bottleneck for ingress and egress, risks traffic congestion, and could compromise public safety during peak periods.

Impact on Residential Streets: A temple of this size will inevitably lead to overflow traffic into adjacent residential streets, including Woodruff Drive and surrounding neighborhoods. Residents will face increased vehicle volumes, higher speeds, and potential safety hazards for pedestrians, including children and the elderly.

Emergency Access: Concentrated traffic and limited access points may impede emergency vehicles, creating a safety hazard in the event of a medical emergency, fire, or other urgent situations.

Parking and Queuing: Large congregations may exceed the proposed on-site parking capacity, leading to vehicles queuing onto residential streets, blocking driveways, and creating hazards for school buses, cyclists, and neighborhood traffic.

Traffic Study Deficiencies: The Applicant's traffic analysis does not adequately address peak-hour impacts, sightline safety, and mitigation measures, such as turn lanes, signalization, or staggered entry/exit plans. A robust traffic study, including independent review and community input, is essential before approval.

Given these concerns, the Project's current traffic plan is inadequate and incompatible with the surrounding neighborhood. At a minimum, the Applicant should be required to:

- Provide secondary or alternative access points to disperse traffic and reduce congestion.
- Submit a comprehensive traffic impact study addressing peak hours, residential street impacts, emergency access, and pedestrian safety.

Tamara Baxter
October 14, 2025
Page 2 of 3

- Incorporate traffic mitigation measures, including turn lanes, signalization, staggered ingress/egress times, and signage to ensure neighborhood safety.
- Implement community-informed traffic management strategies to minimize the Project's impact on residential streets.

Mrs. Kuhn reserves the right to object to any approval that fails to meaningfully address these traffic concerns. occur during certain times, particularly on Sundays. Applicant currently only has one proposed access point on Veneto Way.

Either you or the applicant may reach me directly at (719) 651-5827.

Sincerely,



Michael Kuhn

MDK/kb



431 N. CASCADE AVENUE, STE. 1
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TELEPHONE: (719) 215-8000
FAX: (719) 457-5366

Michael D. Kuhn
Email: mkuhn@klcs.law

October 25, 2025

Via email only

Trevor D. Gloss, Esq. – trevor.gloss@coloradosprings.gov
Colorado Springs Deputy City Attorney
30 S. Nevada Avenue, Suite 501
Colorado Springs, CO 80903

Tamara Baxter – tamara.baxter@coloradosprings.gov
Senior Planner, City of Colorado Springs
30 S. Nevada Avenue, Suite 501
Colorado Springs, CO 80903

Re: Public Comment re: Colorado Springs Temple
2396 Veneto Way, Colorado Springs, CO 80921
DEPN-25-0056

Dear Mr. Gloss and Ms. Baxter:

My client and I have reviewed the Applicant's response to our comment submitted on October 14, 2025, regarding the proposed 140 ½ foot-tall temple spire. This letter addresses a few points raised in the Applicant's response.

I. Applicant's Religious Purpose Does Not Exempt It from Complying with the UDC.

Applicant relies on *Martin v. The Church of Jesus Christ of Latter-day Saints*, 747 N.E.2d 131, 137 (Mass. 2001), for the proposition that it is not the government's role to determine "whether the inclusion of a visible and highlighted steeple is integral to a temple's religious purposes." 10/22/25 Ltr., at 1.

Martin, however, is readily distinguishable and, in fact, undermines Applicant's position. The *Martin* court merely held that government officials may not second-guess whether an architectural feature has a religious as opposed to an aesthetic function. Mrs. Kuhn does not dispute that Applicant's proposed spire serves

a religious purpose. The issue is far narrower: whether a religious applicant must nevertheless comply with the neutral, generally applicable requirements of the Uniform Building Code.

Courts uniformly hold that houses of worship are subject to municipal building and zoning regulations that are reasonably related to legitimate governmental interests in promoting public health, safety, and general welfare. *See Bd. of Zoning Appeals v. Decatur, Ind. Co. of Jehovah's Witnesses*, 117 N.E.2d 115, 118 (Ind. 1954); *City of Solon v. Solon Baptist Temple, Inc.*, 457 N.E.2d 858 (Ohio Ct. App. 1982); *City of Sherman v. Simms*, 183 S.W.2d 415 (Tex. 1944); *Wojtanowski v. Franciscan Fathers Minor Conventuals*, 148 N.W.2d 54 (Wis. 1967); *Hintz v. Zion Evangelical United Brethren Church*, 109 N.W.2d 61 (Wis. 1961). These decisions recognize that neutral building and safety standards may be applied to religious structures without offending constitutional protections.

Indeed, *Martin* itself reaffirmed that religious buildings remain subject to municipal regulation when the rules advance legitimate governmental purposes—such as preserving neighborhood character, protecting sightlines and access to light, and maintaining aesthetic harmony. *See also City of Ladue v. Gilleo*, 512 U.S. 43, 49 (1994) (recognizing the municipal interest in visual harmony and consistency); *Berman v. Parker*, 348 U.S. 26, 33 (1954) (aesthetics and general welfare are valid bases for land-use regulation).

Martin is notable for another reason. The court expressly observed that the local board was entitled to consider whether a reduced steeple height would reasonably accommodate both the church's needs and the town's legitimate interests. 747 N.E.2d at 140. The church voluntarily amended its design, *lowering the steeple from 156 feet to 83 feet*. *Id.* at n.22. Applicant has made no comparable effort here.

Accordingly, *Martin* provides no shelter for Applicant's refusal to comply with applicable height regulations. Rather, it confirms the principle that municipalities may enforce neutral, generally applicable building codes against religious structures when those regulations further legitimate and well-established public purposes.

II. Existing Zoning Changes Nothing.

Applicant contends that because no zoning changes have been proposed for the surrounding area, nearby residents have long been on notice that the property would be used for religious purposes. This argument collapses under its own weight. The surrounding parcels were, and remain, zoned for residential use. That undisputed fact is precisely why the screening and design requirements in UDC § 7.4.203(B)(2) apply in full. Applicant cannot simultaneously rely on the area's residential zoning to

claim “notice” while ignoring the residential protections that accompany that same zoning classification.

Moreover, even accepting Applicant’s notice argument at face value, it is legally irrelevant. Awareness that a parcel might be used for religious purposes does not exempt construction from compliance with neutral, generally applicable building regulations. Religious use is not a license to disregard the UDC.

Applicant’s argument also fails on its facts. The record shows Applicant did not acquire the property until 2012. See *El Paso County Property Records*, Parcel No. 6209303001 (<https://property.spatalest.com/co/elpaso/#/property/6209303001>). Many of the surrounding homes—including Mrs. Kuhn’s residence, constructed in 2009—predate Applicant’s acquisition. Those homeowners could not have had any notice, constructive or otherwise, that a large-scale religious facility would later be built near their properties.

In short, Applicant’s notice theory not only misstates the facts but also misconstrues the law. The applicable zoning and building requirements exist to protect residential character and the rights of neighboring homeowners—protections that Applicant must honor, not evade.

III. Applicant’s Interpretation of “Screening” Fails.

Applicant concedes that UDC § 7.4.203(B)(2) imposes mandatory screening for any structure exceeding the maximum height in residential neighborhoods. Yet, in a blatant effort to evade compliance, Applicant attempts to rewrite the Code, asserting—without a shred of textual support—that these screening requirements apply only to mechanical equipment like HVAC units. This interpretation is meritless. The Code explicitly addresses both mechanical features and architectural elements, including church spires, in Table 7.4.2-F. Nowhere does § 7.4.203(B)(2) limit its reach to mechanical structures alone. The purpose of these provisions is plain: to preserve visual harmony, protect neighborhood aesthetics, and maintain the character of residential areas. Applicant cannot manufacture exceptions where none exist.

Applicant compounds this error by seizing on the phrase “designed or screened” and claiming that the proposed spire complies based solely on its design. This argument is entirely hollow—but at a minimum, the City should mandate design requirements that minimize visibility. Such design requirements should limit the size of the spire (as in *Martin*), prohibit illumination, and mandate matte, neutral paint.

Each of Applicant's so-called "design features" fails on its own terms—even it were not subject to the "screening" requirement:

- "Golden Ratio". Applicant asserts that the spire adheres to the "Golden Ratio," as if invoking architectural mythology excuses noncompliance. There is no evidence—none—demonstrating that a 140½-foot spire actually complies. This is pure *ipse dixit*, unsubstantiated opinion masquerading as fact. Compliance with the Code cannot be outsourced to self-serving claims about aesthetics.
- Lighting. Applicant further claims it will illuminate the spire with a "narrow beam" of light. This is patently contrary to the Code. Lighting increases visibility; it does not mitigate it. Any illumination beyond government-mandated safety requirements exacerbates the very visual impact the screening requirements are designed to prevent.
- Reflectivity and Materials. Applicant promises materials "carefully chosen to avoid excessive reflectivity." Yet the only evidence submitted depicts a gold, highly reflective spire. No colors, no finishes, no specifications—just Applicant's unverified assurance. The City cannot—and must not—accept such empty representations. Any approval must be conditioned on enforceable specifications for color, finish, and materials that actually minimize visual impact, consistent with UDC § 7.4.203(B)(2).

In short, Applicant's interpretation of the Code is wrong. It attempts to nullify the plain language, structure, and purpose of the Code, while offering nothing more than speculative design assertions in its stead. The screening and design requirements apply squarely to the proposed spire, and any suggestion otherwise is meritless.

IV. Legal and Planning Precedent Do Not Support the Proposed Spire.

Applicant contends that "[n]umerous religious structures in Colorado Springs and other municipalities feature illuminated spires or towers without physical screening." 10/22/25 Ltr., at 3. This argument is entirely unsubstantiated: Applicant fails to identify a single example in its submission, leaving Mrs. Kuhn with nothing to respond to but unsupported assertion. Claims without citation or evidence cannot carry the day.

Even the examples that Mrs. Kuhn can identify are wholly inapposite for three independent reasons:

Antiquity. Many cited structures were built in the late 19th or early 20th centuries, long before the adoption of the UDC. Historical precedent does not override current, generally applicable building regulations.

Context. These spires are not located in residential neighborhoods, but in downtown or commercial districts, where visual impact and neighborhood character are governed by entirely different considerations.

Size and Scale. Existing spires are significantly shorter than the one proposed by Applicant.

Illustrative examples include:

- Grace and St. Stephen's Episcopal Church (1872). This iconic downtown bell tower rises to only 90 feet—50 feet shorter than Applicant's proposed spire—and is situated outside any residential zone.
<https://www.historycolorado.org/sites/default/files/media/documents/2018/5ep350.pdf> at p.3
- Will Rogers Shrine of the Sun (1937). The shrine's spire reaches 100 feet. It is located outside residential areas and predates the UDC by decades.
https://en.wikipedia.org/wiki/Will_Rogers_Shrine_of_the_Sun
- St. Mary's Cathedral (1891). The cathedral features an east steeple of 73 feet, far below the height of Applicant's proposed structure.
<https://www.stmaryscathedral.org/about>
- Shove Memorial Chapel (1914) . The chapel features a 30 foot tall spire and is near residential areas. The spire is 90 feet shorter than Applicant's proposed spire. <https://www.coloradocollege.edu/offices/chaplainsoffice/spaces/shove-memorial-chapel.html>

None of these examples supports Applicant's claim that its proposed 140½-foot illuminated spire can escape the UDC's screening and design requirements. They differ in age, context, and scale, and therefore are legally and factually irrelevant. Applicant's reliance on unspecified "numerous" structures is nothing more than rhetoric; it cannot substitute for compliance with the Code.

It is telling that Applicant first raised the design and screening requirements in the UDC only in response to Mrs. Kuhn's objection and comment. Nothing it has said alters the conclusion that the proposed spire violates the UDC. Rather than minimizing its visibility in a residential area, Applicant's design emphasizes the spire

October 25, 2025

Page 2 of 6

through its size, color, and illumination. The City should require modifications to the spire as set forth above, including a reduction in size.

Mrs. Kuhn also reaffirms her objections to the traffic concerns previously raised.

Mrs. Kuhn remains willing to engage with Applicant to discuss modifications that could address her concerns. Absent such changes, she will appeal of any approval through the Planning Commission, City Council, and the District Court.

Sincerely,

A handwritten signature in black ink that reads "Michael D. Kuhn". The signature is written in a cursive style with a horizontal line extending to the right.

Michael D. Kuhn

MDK/

cc: Client
Carolynne C. White, Esq. (cwhite@bhfs.com)



November 6, 2025

Katie Gray
Westwood
10333 E Dry Creek Rd, Suite 400
Englewood, CO 80112

RE: Approval Letter for Colorado Springs Temple Development Plan
File Number: DEPN-25-0056

Dear Ms. Gray

The City's Land Use Review Division administratively approved the above-mentioned development plan for the Colorado Springs Temple to allow for the development of a temple, meeting house, maintenance building, pavilion and ancillary site improvements on November 6, 2025. The plat for this project is Flying Horse No. 24 Filing No. 1. This approval is subject to the following conditions:

1. Development must conform completely to the approved development plan.
2. All site grading must substantially comply with the grading illustrated on the preliminary grading plan.
3. The buildings architecture must substantially comply with the elevation drawings.
4. Utility main and service locations on this plan are illustrative only, and are not approved with this development plan.
5. Parkland Dedication Ordinance, School Ordinance, and Citywide Development Impact Fees below:
 - No fee for park dedication is required; as land dedication has been requested
 - No fee for school dedication is required; as land dedication has been requested.
 - This project requires Citywide Development Impact (Police & Fire) fees in the amount of \$32,829.48 total per City Code 7.5.532.
The listed fees are due to be paid prior to building permit approval. These fees can be paid in person, via check, or credit card at 2880 International Circle, Suite 200-7, or by calling (719) 385-5982. **These fees are determined as of the date of this approval and are subject to increase.**
6. A Preliminary Landscape Plan and/or a Preliminary Irrigation Plan is approved in this application. **A Final Landscape and Irrigation Plan are due at time of building permit** per Code language.
7. Financial Assurances for public and private improvements are **due at time of building permit issuance**, per City Code and policy. Please contact the City's Engineering Development Review Division of Public Works Department at (719) 385-5918 for assurance information pertaining to public or stormwater improvements. For private improvement assurances, please contact the City's Development Review Enterprise at (719) 385-5982 or DREplanninginfo@coloradosprings.gov.
8. A sign permit through Development Review Enterprise is required for all signage, prior to installation.

Please attach one copy of the approved development plan set to each set of construction drawings submitted to the Regional Building Department in conjunction with the building permit application. A Certificate of Occupancy will not be issued for the development until all private and public improvements shown on the plan are completed or financially secured.



City of Colorado Springs

30 S Nevada
 Suite 204
 Colorado Springs, CO

Ph: 719-385-2367

Receipt # 173840
 Date Issued: 12/11/2025

Receipt

Record Information

Record ID: 10FDD-00000-#0001	Record Type:	
Project Name	Site Address	Payor
		KLCS

Fee Information

Fee Item	Notes	Amount
Planning Appeal Fee	Colorado Springs Temple.	\$ 176.00
Total Fee Amount:		\$ 176.00

Payment Information

Method	Reference No	Comments	Transaction Amount
Check	3905	PLANNING APPEAL FOR COLORADO SPRINGS TEMPLE APPL-25-0010 MICHAEL KUHN MKUHN@KLCS.LAW; JENNIFERTKUHN@GMAIL.COM	\$ 176.00
Total Amount Paid:			\$ 176.00

BEFORE THE CITY COUNCIL OF COLORADO SPRINGS

In the Matter of the Appeal of the Planning)
Commission's Denial in APPL-25-0008 and)
Modification of the Administrative) Case: APPL-25-0010
Approval of Project No. DEPN-25-0056)
(Colorado Springs Temple))

Appellant: Jennifer T. Kuhn
12640 Woodruff Drive
Colorado Springs, CO 80921

Project: Colorado Springs Temple
Project No.: DEPN-25-0056
Appeal No: APPL-25-0008
Address: 2396 Veneto Way
Colorado Springs, CO 80921

AMENDED NOTICE OF ADMINISTRATIVE APPEAL TO CITY COUNCIL

Dated: December 15, 2025.

Michael D. Kuhn
KLCS PC
431 North Cascade Avenue, Suite 1
Colorado Springs, CO 80903
(T): (719) 215-8000
Email: mkuhn@klcs.law
Counsel for Appellant Jennifer T. Kuhn

Appellant Jennifer T. Kuhn (“Appellant”), by and through counsel, KLCS PC, submits this Amended Notice of Administrative Appeal to City Council as follows:

I. DECISION BEING APPEALED AND BASIS FOR APPEAL

This appeal challenges the December 10, 2025 decision of the Colorado Springs Planning Commission denying Appellant’s administrative appeal in APPL-25-0008 and modifying the prior administrative approval of Project No. DEPN-25-0056 (the “Project”).

The Project—commonly known as the Colorado Springs Temple—consists of an 18.6-acre parcel located at 2396 Veneto Way, Colorado Springs, CO 80921, and is surrounded by residential neighborhoods. The Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints (“Applicant”) owns the parcel. At issue in this appeal is a proposed 140½-foot spire that Applicant intends to construct and illuminate 24 hours per day, year-round.

Appellant lives within three miles of the Project site and timely submitted written comments to the administrative official objecting to the proposed spire height and illumination. Appellant specifically argued that the proposed spire and illumination is inconsistent with the City’s Uniform Development Code (“UDC”) and fails to comply with UDC § 7.4.203(B)(2), which mandates that any spire exceeding applicable height limitations be designed or screened to minimize visibility from residential neighborhoods.

On November 6, 2025, City Planning Supervisor Tamara Baxter approved the Project without imposing any visibility-mitigation conditions. That approval authorized a structure more than three times the maximum height otherwise permitted under the UDC yet contained no findings, analysis, or enforceable conditions demonstrating compliance with UDC § 7.4.203(B)(2).

On November 10, 2025, Appellant timely appealed the administrative decision to the Colorado Springs Planning Commission. Appellant was, and remains, an “affected party” because she resides within three miles of the Project site and submitted written comments to the administrative official during the comment period preceding the administrative action. Copies of those letters were attached to the original notice of appeal.

On December 10, 2025, the Planning Commission held a public hearing on the appeal. During the hearing, the Commission requested formal advice from the City Attorney on the applicability of UDC § 7.4.203(B)(2) to the proposed spire. After a recess, the City Attorney opined that Applicant was required to comply with the mandates of UDC § 7.4.203(B)(2)—specifically, by designing the spire to minimize visibility to nearby residential neighborhoods.

The Planning Commission then voted 7–1 to deny the appeal. However, the Commission modified the administrative approval by imposing two conditions on the spire: (1) that it be painted a matte color; and (2) that the top portion of the spire not be illuminated, except as required for lighting by the Federal Aviation Administration. The specific language of the motion read:

Deny the Appeal and modify the administrative decision, based upon the finding that the appellant has not substantiated that the appeal satisfies the review criteria outlined in City Code (UDC) Section 7.5.415.A.2, with revisions to the development plan that the facade material of the steeple shall be a non-reflective matte finish and the top tier not be illuminated with the exception of that required from FAA regulations.

Compounding the problem, the Planning Commission failed to define what it meant by the “top tier” of the spire. Although planning staff later suggested that the phrase referred to approximately the upper 17 feet, that interpretation appears nowhere in the decision itself. The resulting ambiguity renders the condition unclear and unenforceable.

The Commission otherwise left intact approval of a 140½-foot spire, including illumination of the remainder of the spire, notwithstanding the UDC’s mandatory requirement that features exceeding district height limits be “designed or screened to minimize visibility” from surrounding residential properties.

Appellant timely submits this Notice of Administrative Appeal to the City Council.

II. STANDARD OF REVIEW

City Council’s review of an administrative appeal is not limited to determining whether the Planning Commission committed reversible error. Under the Uniform Development Code, City Council serves as the City’s final decision-maker and may review the matter *de novo*, applying the UDC directly

to the Project and determining whether the approval complies with the Code. *See* UDC § 7.5.415(c)(1). In doing so, Council may consider the entire record and is not confined to the specific issues addressed or resolved by the Planning Commission. Where the record demonstrates noncompliance with mandatory provisions of the UDC, City Council has both the authority and the obligation to correct that error, regardless of whether a particular violation was fully analyzed below.

III. GOVERNING LAW: THE UDC IMPOSES A CONDITIONAL HEIGHT EXCEPTION AND REQUIRES MINIMIZATION OF VISIBILITY

A. The MX-N Height Limit and the Limited Nature of Table 7.4.2-F Exceptions

The Project site is zoned MX-N (Mixed-Use Neighborhood Scale), which imposes a maximum structure height of 45 feet. While UDC Table 7.4.2-F authorizes limited height exceptions for certain architectural or functional elements, including religious spires, those exceptions are narrow and conditional. They do not create a blanket authorization to exceed the zoning district's height limit.

Table 7.4.2-F permits such elements only where the largest horizontal cross-section of the feature does not exceed five percent of the footprint of the primary structure from which it arises. There is no dispute that Applicant's proposed spire satisfies this numerical footprint limitation. But compliance with Table 7.4.2-F is necessary, not sufficient. Any feature that exceeds the district height limit must also comply with the independent requirements of UDC § 7.4.203(B)(2).

B. Section 7.4.203(B)(2) Applies Whenever a Feature Exceeds the District Height Limit

The governing provision at issue is UDC § 7.4.203(B)(2), which provides:

Building features that extend beyond the maximum building height pursuant to Table 7.4.2-F shall be designed or screened to minimize visibility from the R-E, R-1 9, R-1 6, R-2, and R-Flex Low zone districts, and from any portion of a PDZ district developed or designated for attached or detached single-family or two-family dwelling structures.

Appellant argued before the Planning Commission that this requirement applies here because the proposed spire exceeds the maximum height applicable in the MX-N zone. Under this plain-language interpretation, once a structure relies on Table 7.4.2-F to exceed the district height limit, § 7.4.203(B)(2) mandates that it be designed or screened to minimize visibility from surrounding residential districts.

Applicant disagreed, asserting that § 7.4.203(B)(2) imposes no requirements because the spire complies with the five-percent footprint allowance in Table 7.4.2-F. Under Applicant's view, the visibility-mitigation requirement would apply only if a feature exceeded the height limits specified in the Table itself—an interpretation that would effectively nullify § 7.4.203(B)(2).

Recognizing the significance of this issue, the Planning Commission sought formal guidance from the City Attorney. After recessing to review the question, the City Attorney adopted Appellant's interpretation, concluding that a building feature permitted under Table 7.4.2-F that exceeds the applicable zoning height limit must nonetheless comply with § 7.4.203(B)(2) by being designed or screened to minimize visibility from residential zones. That interpretation accords with the text, structure, and purpose of the UDC.

As the City Attorney recognized, accepting Applicant's interpretation would largely render § 7.4.203(B)(2) meaningless. For example, Table 7.4.2-F exempts television and CB radio antennas from all height limitations. Under Applicant's interpretation, such structures would require no mitigation measures of any kind, even when towering above residential neighborhoods—an outcome plainly inconsistent with the UDC's design and compatibility objectives.

IV. THE SPIRE CANNOT, AS A MATTER OF FACT OR LAW, BE DESIGNED OR SCREENED TO MINIMIZE VISIBILITY

A. A 140½-Foot Spire in an MX-N Context Is Inherently and Unavoidably Highly Visible

The spire fails to comply with the UDC even with the Planning Commission's modifications. A structure standing 140½ feet tall in a low-rise, neighborhood-scale zone is, by definition, highly visible at long range. That visibility flows from height and silhouette, not merely from illumination.

Nothing in the Commission’s partial prohibition on illuminating the top of the spire cures this fundamental incompatibility with § 7.4.203(B)(2). Even without illumination, the spire remains visually dominant. The record contains no evidence of any materials, massing, screening, or design strategies that could meaningfully reduce the visibility of a structure that exceeds the MX-N height limit by nearly 100 feet. At this scale, visibility is not a design choice—it is an inevitability.

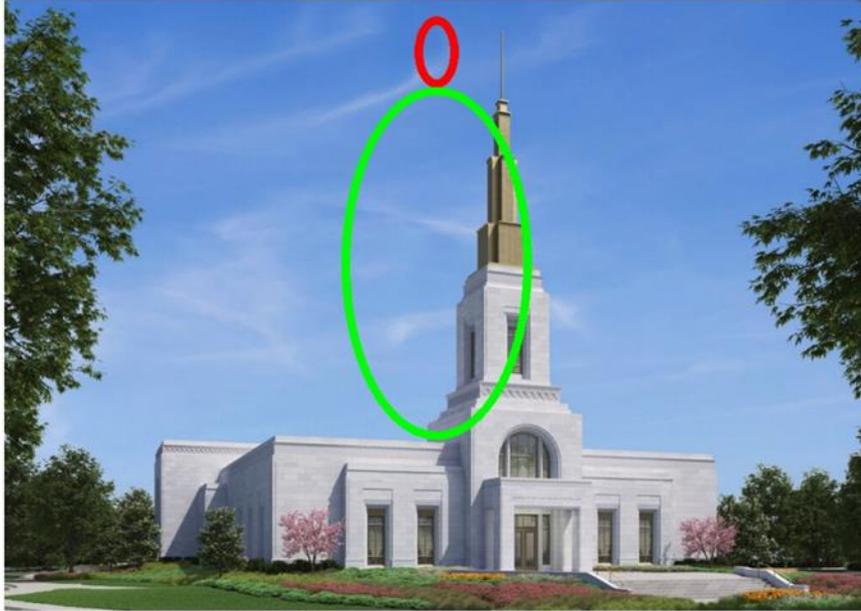
B. Partial Illumination Increases, Rather Than Minimizes, Visibility

The Commission’s condition prohibiting illumination of only the top portion of the spire does not satisfy the UDC’s mandate that features exceeding district height limits be designed or screened to minimize visibility from residential zones. Allowing illumination of the remainder of the spire—still well over 120 feet tall—exacerbates the problem.

Continuous lighting increases contrast against the night sky, expands the radius of nighttime visibility, and heightens the spire’s visual dominance over nearby neighborhoods. No findings or analysis support any conclusion that visibility has been minimized. To the contrary, the Commission’s modification implicitly acknowledges that illumination heightens visibility, yet it allowed illumination of the vast majority of the spire.

This problem is compounded by the fixtures Applicant proposes to use. Applicant’s development plan (fixtures K2 and P6 on p. 35) specifies Odessa 2 Medium Surface Cluster lights, which the manufacturer describes as lighting that “packs a punch.” Applicant proposes using both the highest wattage available for the model (W40) and the highest color temperature (4000K)—a bright white light that is visually intense at night and more prone to glare than lower wattage, warmer alternatives. These choices are fundamentally inconsistent with any claim that visibility has been minimized.

The graphic below illustrates that the Planning Commission’s modification does not bring the Project into compliance with the UDC’s mandatory standard and that the vast majority of the spire remains entirely unmitigated:



Simply put: the UDC does not authorize a “some illumination is better than more illumination” approach.

C. The Height Exception Cannot Be Used as a Workaround to Evade the Visibility Standard

The UDC does not authorize unrestricted height increases simply because a feature qualifies for a footprint-based exception under Table 7.4.2-F. Any permitted exceeding of the district height limit is expressly conditioned on compliance with § 7.4.203(B)(2).

Treating a 140½-foot spire as a permissible architectural feature without meaningful visibility mitigation would convert a narrow exception into a wholesale workaround, effectively swallowing the MX-N height limit. The Code permits exceptions, not landmark-scale vertical structures that dominate residential neighborhoods.

Neither the administrative approval nor the Planning Commission’s modified decision contains findings, analysis, or enforceable conditions demonstrating that the spire’s visibility has been minimized in any meaningful way. That failure independently warrants reversal or remand.

V. THE SPIRE IS INDEPENDENTLY INCOMPATIBLE WITH THE SURROUNDING NEIGHBORHOOD UNDER § 7.5.515

Independent of § 7.4.203(B)(2), the proposed spire and associated lighting violate UDC § 7.5.515(D)(1)(c). That section requires, as a condition of development plan approval, that a project’s site design and building elements be “compatible and harmonious with the surrounding neighborhood, buildings, and uses.”

A 140½-foot spire creates a vertical form that is dramatically disproportionate in scale to adjacent residential and low-density development. It functions as the dominant visual element of the area, overwhelms the surrounding built environment, and fails to achieve harmony with the neighborhood context. This incompatibility exists regardless of illumination, paint finish, or partial lighting restrictions.

The Planning Commission made no findings explaining how a structure of this height is compatible with a neighborhood-scale mixed-use zone, nor did it articulate any limiting principle that would constrain similar approvals in the future. Approval under these circumstances is arbitrary and inconsistent with the UDC’s purpose of predictable, compatible development.

VI. THE PROPOSED LIGHTING VIOLATES MULTIPLE INDEPENDENT PROVISIONS OF THE UDC

A. The Spire Lighting Violates the UDC’s Prohibition on Unobstructed Upward Light

Members of the Planning Commission correctly identified an additional, independent code violation relating to the proposed lighting of the spire: UDC § 7.4.1203(3)(c). That section provides:

A lighting fixture may beam light upward only if all upward light is reflected back down by a canopy, roof, or other such structure.

This provision prohibits upward-directed or outward-projected illumination unless the light is physically captured and reflected downward by an architectural element. The purpose of the standard is clear: to prevent skyglow, glare, and visual intrusion caused by upward illumination.

Applicant’s Project Statement confirms that the spire is illuminated using upward-aimed spotlight fixtures designed to wash the vertical surface of the

spire. Those fixtures project light upward into open air without any canopy, roof, or comparable structure capable of reflecting the light back downward. The Applicant's own description of the lighting method therefore confirms a direct violation of UDC § 7.4.1203(3)(c).

Moreover, although Applicant's submission includes photometric exhibits depicting illumination levels on building façades, those analyses do not evaluate upward light projection, skyline visibility, or the visibility of illuminated surfaces from nearby residential neighborhoods. As a result, the record contains no evidence demonstrating compliance with UDC § 7.4.1203(3)(c) or the Code's broader mandate to minimize visual impact. Approval without such analysis was arbitrary and unsupported.

The concern expressed by the Planning Commissioners underscores that this is not a close question. The spire lighting fails to comply with the UDC regardless of height, visibility, or footprint allowances.

B. The Planning Commission's Modifications Do Not Cure the § 7.4.1203(3)(c) Violation

Appellant agrees with the concerns raised by the Planning Commissioners. However, the Commission's modifications to the administrative approval do not resolve the § 7.4.1203(3)(c) violation.

The Commission merely prohibited illumination of the uppermost portion of the spire. Nothing in the modification requires that any upward-directed light illuminating the remainder of the spire be reflected back down by a canopy, roof, or comparable structure, as the UDC expressly mandates.

As a result, even as modified, the approval continues to permit unobstructed upward-projected illumination, in direct conflict with § 7.4.1203(3)(c). Partial de-illumination does not convert an unlawful lighting method into a compliant one. The defect is structural and directional, not merely locational.

C. The Spire Lighting Also Violates the UDC's Shielding and Light-Trespass Requirements

Independent of § 7.4.1203(3)(c), the proposed spire lighting conflicts with the UDC's general lighting standards requiring that fixtures be fully shielded and designed to prevent light trespass into residential areas and the public right-of-way.

The spire lighting consists of architectural accent illumination directed onto a tall vertical element visible from surrounding residential neighborhoods. Because the fixtures project light upward and outward across open air, the light source and illuminated surface are visible well beyond the site boundaries. This creates glare and light trespass inconsistent with the UDC's lighting framework, which is intended to confine light to the site and its intended functional area.

Nothing in the record demonstrates that the spire fixtures are fully shielded as installed; oriented to prevent visibility of the light source from residential properties, or limited to downward-directed illumination. Absent such showings, the spire lighting violates the UDC's baseline lighting standards even apart from the upward-lighting prohibition.

D. The Intensity and Color Temperature of the Proposed Lighting Exacerbate Noncompliance

The noncompliance is compounded by the intensity and color temperature of the proposed fixtures. As discussed above, Applicant proposes to use Odessa 2 Medium Surface Cluster fixtures at the highest available wattage (W40) and 4000K color temperature, a bright white light.

Higher wattage increases luminous output and throw distance, while 4000K light contains a higher proportion of short-wavelength (blue-rich) light that is more visually intrusive at night and more prone to scatter. This combination significantly increases glare; perceived brightness from long distances, and nighttime visual prominence.



These characteristics are directly at odds with the UDC's emphasis on minimizing visual impact and preventing light trespass, particularly in proximity to residential neighborhoods.

E. The Temple Building Lighting Fails the Same UDC Standards

The UDC's lighting requirements apply not only to the spire, but to the temple structure and site lighting as a whole. To the extent the development proposal includes architectural façade lighting, accent lighting, or landscape lighting that projects light upward or outward without a canopy or roof to reflect it downward, leaves light sources visible from nearby residential properties or the public right-of-way, or relies on high-intensity, high-color-temperature fixtures without demonstrated mitigation, those lighting elements likewise violate the UDC's lighting standards.

The record contains no analysis demonstrating that the overall lighting plan confines illumination to functional areas, avoids upward or outward projection, minimizes visibility from residential zones, or employs the least intrusive lighting necessary to accomplish legitimate site objectives. Absent such findings, approval of the lighting plan is inconsistent with the Uniform Development Code.

F. Lighting Noncompliance Exists Independent of Height and Visibility Analysis

Finally, it bears emphasis that the lighting violations identified here are independent of the height and visibility issues addressed under UDC § 7.4.203(B)(2). Even if the spire's height were otherwise permissible, the lighting plan would still fail to comply with § 7.4.1203(3)(c) and the UDC's general lighting standards.

Neither the administrative approval nor the Planning Commission's modified decision includes findings explaining how the proposed lighting complies with UDC § 7.4.1203(3)(c), avoids upward projection, or minimizes visibility from residential neighborhoods. Conclusory approval without findings applying the governing standards is arbitrary and must be reversed or remanded.

Because the Planning Commission’s modifications did not require structural compliance with the upward-lighting prohibition, did not mandate shielding or re-orientation of fixtures, and did not impose enforceable limits on intensity or color temperature, the approval remains unlawful.

VII. RESPONSE TO APPLICANT’S RLUIPA ARGUMENTS

Applicant argued below that it is entitled to construct a 140½-foot spire irrespective of the UDC’s express requirements, invoking the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. §§ 2000cc *et seq.* Applicant is wrong, as detailed in Appellant’s written comments. Nothing in RLUIPA prevents the City from applying neutral, generally applicable zoning provisions that serve legitimate governmental purposes such as preserving neighborhood character, ensuring visual harmony, and maintaining aesthetic consistency. A requirement that a structure exceeding height limits be designed to minimize visibility is the very type of neutral aesthetic and land use regulation that courts have consistently upheld as permissible and not a “substantial burden” on religious exercise. Even in the case cited by Applicant involved a substantial reduction in the proposed spire height to achieve compatibility with surrounding development—precisely the type of compromise the City failed to require here

Even the authority cited by Applicant involved substantial reductions in spire height to achieve compatibility with surrounding development. That precedent confirms—not undermines—the City’s authority to enforce the UDC’s visibility, lighting, and compatibility standards here.

VIII. RELIEF REQUESTED AND RESERVATION OF RIGHTS

The Planning Commission’s decision to deny the appeal and modify the administrative approval of the Project remains contrary to the express language of the UDC, erroneous, and clearly contrary to the law.

Accordingly, Appellant respectfully requests that the City Council:

- A. Reverse the Planning Commission’s action to the extent it failed to provide full relief or, at a minimum, remand with instructions requiring specific findings supported by competent evidence;
- B. Return the matter to the Planning Commission and/or the relevant planning official with directives requiring full compliance with the UDC including enforceable conditions governing structure height,

massing, material reflectivity, lighting, and any design modifications necessary to meaningfully minimize visibility; and

- C. Vacate approval of any illumination of the spire and any other portions of the building as inconsistent with the UDC.

Appellant expressly reserves all rights, including rights to seek judicial review under C.R.C.P. 106(a)(4).

Dated: December 15, 2025.

KLCS PC

/s/ Michael D. Kuhn
Michael D. Kuhn, #42784

Counsel for Appellant Jennifer T. Kuhn