

Date.....October 26, 2009.....

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on October 15, 2009, its members voted 9-0 in support of a motion to recommend **APPROVAL** of a request from Divine Temple Church of God In Christ (owner), 707 Buchanan Street, represented by Pastor John Quinn (officer) to vacate the following segments of right-of-way:

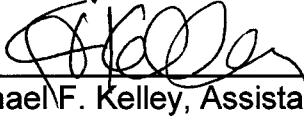
- A) An irregular segment of the south edge of the Buchanan Street right-of-way adjoining 707 Buchanan Street.
- B) An irregular segment of the west edge of Pennsylvania Avenue right-of-way adjoining 707 Buchanan Street;

subject to the following conditions:

1. Provision of easements for all existing utilities until such time they are relocated at the applicant's expense.
2. Any use of the right-of-way in common with the adjoining property is subject to compliance with a Site Plan as approved by the Permit & Development Center.
3. Combination of all commonly owned parcels into one parcel for the off-street parking site.
4. Any right-of-way along Buchanan Street should be 11 feet from the back-of-curb (1-foot behind the sidewalk) and 13 feet from the back-of-curb (3 feet behind the sidewalk) along Pennsylvania Avenue.

MOVED by \_\_\_\_\_ to receive and file and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:



Michael F. Kelley, Assistant City Attorney

(11-2009-1.14)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

.....  
Mayor

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
City Clerk

Request from Divine Temple Church of God In Christ (owner), 707 Buchanan Street, represented by Pastor John Quinn (officer) for vacation of the following segments of undeveloped right-of-way adjoining the applicant's property: A) An irregular segment of the south edge of the Buchanan Street right-of-way. B) An irregular segment of the west edge of Pennsylvania Avenue right-of-way.				<b>File #</b> 11-2009-1.14	
<b>Description of Action</b>	Vacation of the following segments of undeveloped right-of-way: A) An irregular segment of the south edge of the Buchanan Street right-of-way. B) An irregular segment of the west edge of Pennsylvania Avenue right-of-way.				
<b>2020 Community Character Plan</b>	Low-Density Residential				
<b>Horizon 2025 Transportation Plan</b>	No Planned Improvements				
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District				
<b>Proposed Zoning District</b>	"R1-60" One-Family Low-Density Residential District				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval	9-0	<b>Required 6/7 Vote of the City Council</b>		Yes
	Denial				No

Divine Temple Church of God in Christ - 707 Buchanan Street 11-2009-1.14



Date \_\_\_\_\_

Agenda Item 16

Roll Call # \_\_\_\_\_

October 16, 2009

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held October 15, 2009, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 9-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Dann Flaherty	X			
Ted Irvine	X			
Jeffrey Johannsen				X
Greg Jones	X			
Frances Koontz				X
Jim Martin	X			
Brian Millard	X			
Mike Simonson				X
Kent Sovern	X			

**APPROVAL** of the request from Divine Temple Church of God In Christ (owner), 707 Buchanan Street, represented by Pastor John Quinn (officer), for the requested vacation subject to:

1. Provision of easements for all existing utilities until such time they are relocated at the applicant's expense.
2. Any use of the right-of-way in common with the adjoining property is subject to compliance with a Site Plan as approved by the Permit & Development Center.
3. Combination of all commonly owned parcels into one parcel for the off-street parking site.
4. Any right-of-way along Buchanan Street should be 11 feet from the back-of-curb (1-foot behind the sidewalk) and 13 feet from the back-of-curb (3 feet behind the sidewalk) along Pennsylvania Avenue.

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Staff recommends approval of the requested vacation subject to:

1. Provision of easements for all existing utilities until such time they are relocated at the applicant's expense.



CITY PLAN AND ZONING COMMISSION  
 ARMORY BUILDING  
 602 ROBERT D. RAY DRIVE  
 DES MOINES, IOWA 50309-1881  
 (515) 283-4182

ALL-AMERICA CITY  
 1949, 1976, 1981  
 2003

2. Any use of the right-of-way in common with the adjoining property is subject to compliance with a Site Plan as approved by the Permit & Development Center.
3. Combination of all commonly owned parcels into one parcel for the off-street parking site.
4. Any right-of-way along Buchanan Street should be 11 feet from the back-of-curb (1-foot behind the sidewalk) and 13 feet from the back-of-curb (3 feet behind the sidewalk) along Pennsylvania Avenue.

**STAFF REPORT**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant has constructed an off-street parking lot that encroaches into the excess right-of-way. The parking lot is used and owned by the Divine Temple Church across Buchanan Street to the north. Prior to this request the applicant sought retention of the off-street parking lot from the Board of Adjustment. The Board of Adjustment granted relief with conditions, which are outlined in the Relevant Zoning History section of this report. The proposed vacation would allow the applicant to retain the off-street parking lot and meet the Board of Adjustment conditions.
2. **Size of Site:** Approximately 6,359 square feet (0.15 acres).
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** Buchannan Street and Pennsylvania Avenue right-of-way.
5. **Adjacent Land Use and Zoning:**
  - North* – "R1-60"; Use is the Divine Temple Church.
  - South* – "R1-60"; Use is Pennsylvania Avenue right-of-way and Interstate 235.
  - West* – "R1-60"; Use is off-street parking lot for the Divine Temple Church.
  - East* – "R1-60"; Uses include Pennsylvania Avenue and a mix of residential uses.
6. **General Neighborhood/Area Land Uses:** The subject right-of-way is located at the southwest corner of the intersection of Buchanan Street and Pennsylvania Avenue in a predominantly low-density residential area abutting the freeway.
7. **Applicable Recognized Neighborhood(s):** Capitol Park Neighborhood.
8. **Relevant Zoning History:** On May 27, 2009, the Zoning Board of Adjustment granted the following appeals of zoning regulations related to the proposed expansion of the existing vehicle display lot:
  - Exception to allow use of property for an off-street parking area accessory to a permitted use where such parking does not immediately adjoin the permitted use.
  - Variance of 25 feet less than the minimum required 30-foot front yard setback along Buchanan Street.
  - Exception of 5 feet less than the minimum required 10-foot west side yard setback.

- Variance of the provision requiring a 6-foot tall opaque screen along the west side property line.

The requested Exceptions and Variances to zoning regulations were granted subject to the following conditions:

- Provision of a 5-foot front yard (north) setback from the property line adjoining Buchanan Street right-of-way.
- Any parking lot is in conformance with a Site Plan as approved by the Permit and Development Center.
- Any parking lot is in conformance with all necessary building permits and any necessary Grading Permit waiver by the Permit and Development Center.

**9. 2020 Community Character Land Use Plan Designation: Low-Density Residential.**

**10. Applicable Regulations:** The Commission reviews all proposals to vacate land dedicated for a specific public purpose, such as for streets and parks, to determine whether the land is still needed for such purpose or may be released (vacated) for other use. The recommendation of the Commission is forwarded to the City Council.

**II. ADDITIONAL APPLICABLE INFORMATION**

- 1. Utilities:** The Public Works Department has indicated there is a storm sewer running north/south along Pennsylvania Avenue. Staff recommends reservation of necessary easements for all utilities in place with any vacation.
- 2. Traffic/Street System:** The Traffic and Transportation Department has indicated that subject right-of-way along Buchanan Street should be 11 feet from the back-of-curb (1-foot behind the sidewalk) and 13 feet from the back-of-curb (3 feet behind the sidewalk) along Pennsylvania Avenue. Staff does not anticipate that removal of the requested right-of-way segment will negatively impact traffic or design of the surrounding public street facilities.
- 3. Access or Parking:** The subject right-of-way has most recently provided access to off-street parking for the Divine Temple Church located across Buchanan Street to the north. Since 707 Buchanan Street and 1000 Pennsylvania Avenue are owned in common by the applicant, there will be no loss of public access to this parking so long as those two properties are owned in common.

**SUMMARY OF DISCUSSION**

*There was no discussion.*

**CHAIRPERSON OPENED THE PUBLIC HEARING**

*There was no one in the audience to speak in opposition.*

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

**COMMISSION ACTION**

Shirley Daniels moved staff recommendation to approve the requested vacation subject to:

1. Provision of easements for all existing utilities until such time they are relocated at the applicant's expense.
2. Any use of the right-of-way in common with the adjoining property is subject to compliance with a Site Plan as approved by the Permit & Development Center.
3. Combination of all commonly owned parcels into one parcel for the off-street parking site.
4. Any right-of-way along Buchanan Street should be 11 feet from the back-of-curb (1-foot behind the sidewalk) and 13 feet from the back-of-curb (3 feet behind the sidewalk) along Pennsylvania Avenue.

Motion passed 9-0

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment