

DUMFRIES, VIRGINIA
Virginia's Oldest Continuously Chartered Town
CHARTERED 1749 INCORPORATED 1961

John Wilmer Porter Building
17755 Main Street
Dumfries, Virginia 22026-2386
Tel: 703-221-3400 / Fax: 703-221-3544
www.dumfriesva.gov

August 3, 2016

STAFF REPORT

**CONDITIONAL USE PERMIT
CUP 2016-002**

Applicant: Apostle Continuation Church, Virginia Assembly

Zoning: B-1: General Business District

Parcels (GPIN): 8188-79-7450

Address: 17985 Dumfries Shopping Plaza, Suite #200

Site Acreage: 11.70 acres

Future Land Use Map: Mixed Use at up to 1.25 Floor Area Ratio

Proposal: To establish a church or place of worship in an existing commercial space at the Dumfries Shopping Center

Staff Recommendation: Staff recommends approval of CUP 2016-002, subject to the proposed conditions enclosed in Appendix 1.



APPLICANT'S REQUEST

The applicant, Apostle Continuation Church, Virginia Assembly, has requested a Conditional Use Permit (CUP) to establish a church or place of religious worship or assembly at the Dumfries Shopping Center. Section 70-247(B) of the Zoning Ordinance permits churches in B-1 districts with the approval of a CUP from Town Council.

The proposed use would be located within a second floor commercial space accessed from at door at the northern end of the shopping center. According to the applicant, the proposed space would be 5,157 square feet with two rooms used for worship services totaling 2,768 square feet. According to the applicant's narrative, the church currently has an average of 50 members that attend its worship services. According to tenant layout drawings provided by the applicant, the main place of assembly would have a minimum of 125 seats.

The proposed use would have hours of operation from 9:00am-1:00pm on Sundays, 10:00pm-1:00am on Fridays, and on Wednesdays from 7:00pm-8:00pm. The applicant clarified at the Planning Commission's June 13th work session that the ability to operate a day care center in addition to the church is not being requested with this application.

A copy of the proposed development conditions are attached as Appendix 1, with suggested motions for action in Appendix 2. The application form and applicant's narrative are attached as Appendix 3.

STANDARD OF REVIEW (§70-10)

Conditional Use Permits may be granted by the Town Council for any of the uses for which a CUP is required by the Zoning Ordinance. In granting any such CUP, the Council may impose any such conditions in connection therewith as will assure that it will conform with the requirements contained herein and will continue to do so, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with. A CUP shall not be issued unless the Council shall find that:

1. The proposal as submitted or as modified will not affect adversely the health, safety, or welfare of persons residing or working in the neighborhood of the proposed use; and will not be detrimental to public welfare or injurious to the property or improvements in the neighborhood. Among matters to be considered in this connection are traffic congestion, noise, lights, dust, odor fumes, and vibrations, with due regard for timing of operation, screening, and other matters which might be regulated to mitigate adverse impact.
2. The proposal as submitted or modified will conform to the Comprehensive Plan for the Town or to specific elements of such Plan, and the official policies adopted in relation thereto, including the purposes and the express intent of this chapter.

PAYMENT OF REAL ESTATE TAXES (§70-6)

Prior to the consideration of a CUP, an applicant must ensure that delinquent real estate taxes owed to the Town assessed against the subject property have been paid. Staff has verified that the property owner's taxes are current, with no outstanding delinquent bills.

LOCATION AND CHARACTER

The subject property is located along the eastern edge of Fraley Boulevard travelling north from Fraley's intersection with Graham Park Road. According to the applicant, the shopping center was constructed in 1958 and contains approximately 85,000 square feet of commercial square footage. The shopping center is served by approximately 309 parking spaces on the subject property, with an additional 59 spaces located on three properties accessible via interparcel drive aisles. These properties have no improvements other than an approximately 6,000 square foot, two-story commercial building and the 59 parking spaces.

An undeveloped portion of the subject property borders the Dumfries Commerce Center to the north, which is also zoned B-1. The acreage to the immediate east is zoned R-3 and serves as an electrical transmission line. The transmission line is located on acreage owned by the Williamstown Homeowners Association. The subject property is located adjacent to the home of Dumfries Dental Associates at 18043 Dumfries Shopping Plaza on the corner of Fraley Boulevard and Graham Park Road. The shopping center is located across Fraley Boulevard from a series of commercial uses including a fast food restaurant, a used auto sales establishment, retail sales, motor vehicle repair service, and an office building.

The Dumfries Shopping Center is the location of two other churches. The first, Freedom of Praise Worship Center, has operated at its current location of 17999 Dumfries Shopping Plaza since 2009. Freedom of Praise has hours of operation on Sundays from 9:00am until the end of the 4:30pm prayer service, along with Wednesday and Thursday evenings beginning at 6:30pm¹.

The second church is Fountain Gate Chapel, which operates at 18037 Dumfries Shopping Plaza under the conditions approved by CUP 2014-003. This CUP was approved by Town Council on May 7, 2014 for a church totaling 4,300 square feet with a main place of assembly totally 3,255 square feet. A copy of the Council's approval resolution is attached as Appendix 4. Fountain Gate operates on Sundays from 10:00am-1:00pm, Wednesdays from 9:00pm-10:00pm, and on Fridays from 12:00pm-1:00pm and 7:30pm-9:30pm with service on the first Friday of the month from 10:00pm-3:00am².

ZONING ORDINANCE PROVISIONS

CUP Criteria: Based an examination of the criteria in §70-10, a church at this location would not create impacts that would adversely affect the health, safety or welfare of persons residing or working near the subject property. A church at this location would not be detrimental to public welfare or

¹ Freedom of Praise Worship Center Weekly Schedule (<http://www.fopwc.org/calendar.html>); accessed 8/1/2016

² Fountain Gate Chapel Homepage (<http://www.fgchapelva.org/>); accessed 8/1/2016

injurious to the property or improvements in the vicinity. Churches are a compatible use with the mixed use designation of the property on the Comprehensive Plan's Future Land Use Map.

Hours of Operation: The proposed hours of operation are outside of customary Monday through Friday business hours, which would minimize some traffic congestion on neighboring roads. However, given that the two other churches within the shopping center, which also have hours of operation on Sundays during the same time as the applicant's requested hours of operation, staff recommends the adoption of a development condition that limits the main place of assembly to 75 seats. This maximum seat limit would give the church room for growth, while ensuring that the similar hours of operation for each of the churches does not create parking congestion or traffic conflicts for worship service attendees at the shopping center, exiting Graham Park Road, or exiting Fraley Boulevard. Although the applicant's tenant layout shows a maximum occupancy load of 125 for the commercial space, the applicant would need to comply with the lower seat count to maintain the validity of the CUP. Should Town Council approve this seating maximum, violation of the maximum could be grounds for Notices of Violation or revocation of the applicant's Conditional Use Permit.

Parking: The applicant's parking needs have the potential to create parking congestion on site. Based on the 2,768 square feet of space proposed for use by the church, the applicant would need to ensure that a minimum of 28 parking spaces can be allotted for use by the church during its hours of operation on the subject property. Section 70-13 of the Zoning Ordinance requires churches to provide 1 parking space for every 100 square feet of usable floor area in the main place of assembly if fixed seats are not being used such as pews or other seating which is not easily detached from the floor.

It is unclear to staff the exact size of the Dumfries Shopping Center. The staff report for Fountain Gate Chapel's application, CUP 2014-003, described the shopping center as having approximately 70,000 total square feet. This would be 15,000 square feet less than the current ownership group's understanding of the shopping center size. Determining the ultimate size of the shopping center is critical to ensure that the shopping center's existing 309 spaces, with the potential use of 59 accessible but technically off-site spaces, can meet the Zoning Ordinance's minimum parking requirements for the retailers located there.

While the shopping center's parking generally serves the existing tenants with ample capacity, the property owner should collaborate with the applicant to ensure that the existing uses, when totaled, meet the minimum required parking prescribed by §70-13. Should Town Council approved the CUP, staff recommends the adoption of a development condition which would require the applicant to provide a parking tabulation for the shopping center within 60 days of the Council's approval. The parking tabulation can be submitted to the Community Development Department with a list of the existing uses, their corresponding addresses, and the required parking generated by each use. The parking for vacant space can be calculated using the shopping center rate of 1 space per 200 square feet of retail floor area as listed in §70-13. Should the parking tabulation demonstrate that the property owner would not meet the Zoning Ordinance's minimum parking requirement, the applicant could secure a parking credit allowance from the Public Works Director as outlined in §70-13, Paragraph K prior to the issuance of a Certificate of Occupancy³, or seek an alternative method for achieving the minimum parking on site.

³ The Zoning Ordinance's parking credit allowance gives property owners the ability to reduce their minimum parking requirement. This waiver request is reviewed by the Public Works Director and Zoning Administrator, and may be authorized in either of the following two scenarios:

RECOMMENDATION

The applicant's proposal meets the applicable provisions of the Zoning Ordinance, and conforms to the future land use recommendations in the Comprehensive Plan. The presence of additional churches at the shopping center, with similar hours of operation, necessitates a reasonable maximum to limit parking congestion and traffic conflicts. With the conflicting information on the shopping center's size, the applicant can coordinate with the property owner and Town staff to confirm the owner's ability to meet the Zoning Ordinance's minimum parking requirements through a catalog of the tenant spaces and the parking needed to service them.

Attachments:

1. Proposed Development Conditions
2. Sample Motions
3. Applicant's Submission
4. May 7, 2014 Resolution approving CUP 2014-003 for Fountain Gate Chapel

(1) Up to thirty percent (30%) of the required parking spaces may be waived when the use is located in an area of development that is so intense that normal individual demand will not be generated. In considering this waiver request, weight shall be given to the availability of public transportation, the proximity of commercial parking garages or lots, and the expected overlap of commercial and employment activities in the area.

(2) Credit may be given for parking spaces required for one use when parking spaces required for another use on the same lot, or on an adjacent lot, can be used because of a difference in normal operating hours. This credit may be given for up to 75 percent of the required spaces when no overlap in normal operating hours occurs, and up to 25 percent of the required spaces when an overlap of less than four hours per day occurs, provided legally sufficient agreement is executed when different property owners are involved.

PROPOSED DEVELOPMENT CONDITIONS**CUP 2016-002****August 3, 2016**

If it is the intent of Town Council to approve CUP 2016-002, located at 17985 Dumfries Shopping Plaza, Suite #200, GPIN 8188-79-7450, for use as a church or place of worship or religious assembly pursuant to §70-247(B), staff recommends that Council condition the approval by requiring conformance with the following conditions:

1. The maximum number of seats in the main place of assembly shall be 50. The Town of Dumfries Building Official shall establish occupancy loads for all habitable areas within the proposed commercial space prior to the issuance of a Certificate of Occupancy. If the Building Official's established occupancy load is less than 75 seats in the main place of assembly, the maximum number of seats shall be the number calculated by the Building Official.
2. Hours of operation shall be limited to Sundays from 9:00AM-1:00PM, 10:00PM-1:00AM on Fridays, and Wednesdays from 7:00PM-9:00PM.
3. Within 60 days of Town Council's approval of the Conditional Use Permit, the applicant shall submit a parking tabulation to the Zoning Administrator for review. The parking tabulation shall list the total number of parking spaces on the subject property (8188-79-7450), the total square footage of each leased commercial tenant space, the total square footage of each unleased space, the minimum number of parking spaces required for each space per §70-13 of the Zoning Ordinance. The Zoning Administrator shall review the tabulation and determine whether the shopping center can provide parking to meet the applicant's minimum parking requirement and that of the other tenants. Unleased space may be assigned the shopping center parking rate as listed in §70-13, or another use's parking rate at the discretion of the applicant. If the Zoning Administrator determines that the shopping center's parking does not meet the minimum Zoning Ordinance requirements, the applicant may submit a parking credit allowance request to the Public Works Director for his/her review in order to achieve compliance with the Zoning Ordinance's parking requirements. The applicant shall demonstrate to the satisfaction of the Zoning Administrator that the site's parking can meet the minimum parking requirement prior to the issuance of a Certificate of Occupancy for the proposed use.

SUGGESTED MOTIONS

CUP 2016-002

Planning Commission

Approval: I move that the Planning Commission recommend to Town Council the approval of CUP 2016-002, subject to the development conditions attached in Appendix 1.

Denial: I move that the Planning Commission recommend to Town Council the denial of CUP 2016-002.

Deferral: I move that the Planning Commission defer decision on CUP 2016-002, with the record remaining open for public comment, to a date certain of September 12, 2016

Town Council

Approval: I move that Town Council approve CUP 2016-002, subject to the development conditions attached in Appendix 1.

Denial: I move that Town Council deny CUP 2016-002.

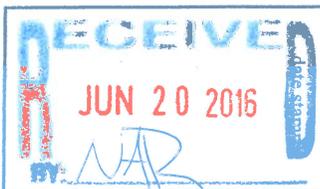
Deferral: I move that Town Council defer decision on CUP 2016-002, with the record remaining open for public comment, to a date certain of _____.



DUMFRIES, VIRGINIA

17755 Main Street
Dumfries, Virginia 22026-2386
703-221-3400

www.dumfriesva.gov



Taxes current Yes No



APPLICATION FOR A CONDITIONAL USE PERMIT

Please refer to the fee schedule for applicable application fee
The applicant is responsible for costs of public hearing advertisements (determined later)

Name of Business or Organization: THE APOSTLE'S CONTINUATION CHURCH, VIRGINIA ASSEMBLY.
If organization is a non-profit, please provide a copy of your 501(c)3

Site address in Town: 17985 Dumfries Plaza Ste. 200.

I hereby submit this request for a Conditional Use Permit in accordance with Section 70-247(B)(5) of the Town of Dumfries Zoning Ordinance, to:

ALLOW FOR PLACE OF WORSHIP

State specifically all activities and materials required by this proposed use, attach additional pages if necessary.

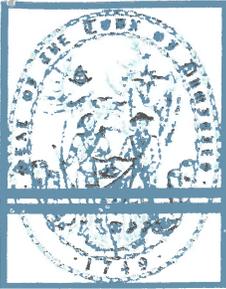
Type of business or use

- | | | | |
|----------------------------------|-------------------------------------|-------------------------------------|--------------------------|
| Use with a drive-through window | <input type="checkbox"/> | Child care or adult day care center | <input type="checkbox"/> |
| Automobile sales or service | <input type="checkbox"/> | Convenience store | <input type="checkbox"/> |
| Church or charitable institution | <input checked="" type="checkbox"/> | Other | <input type="checkbox"/> |

- | | | |
|---|---|--|
| Can customers or the public visit the site? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Does the building contain assembly area (church, auditorium, or movie theater)? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Is equipment brought to the site? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does the business contain any equipment beyond desktop computers? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Are vehicles larger than an SUV parked onsite? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

I hereby certify that I have the authority to make the foregoing application on behalf of the named business or organization, that the information given is correct, that I have read and I understand the applicable zoning ordinances for the zoning district, and that this project will comply with all applicable Codes and Ordinances of the Town of Dumfries and the State of Virginia.

Applicant
Name EMMANUEL ACKOM DAATO Signature [Signature]
Please Print
Address 9901 Shallow Creek Loop 102 Phone 571-598-7208
Manassas Va 20109 Email emmanuelackomdaato@yahoo.com



DUMFRIES, VIRGINIA

John Wilmer Porter Building
17755 Main Street
Dumfries, Virginia 22026-2386
703-221-3400

www.dumfriesva.gov



CR# 1128 PAID
MAY 18 2016 \$1750.00
TOWN OF DUMFRIES, VA

Taxes current [X] Yes [] No

APPLICATION FOR A CONDITIONAL USE PERMIT

Please refer to the fee schedule for applicable application fee
The applicant is responsible for costs of public hearing advertisements (determined later)

Name of Business or Organization: THE APOSTLE CONTINUATION CHURCH
If organization is a non-profit, please provide a copy of your 501(c)3

Site address in Town: 17985 Dumfries Plaza suite 200 Dumfries Va 22026

I hereby submit this request for a Conditional Use Permit in accordance with Section 70-247(B)(5) of the Town of Dumfries Zoning Ordinance, to:

Be used as a Place of worship and
also to be used as child care center

State specifically all activities and materials required by this proposed use, attach additional pages if necessary.

Type of business or use

- Use with a drive-through window []
Automobile sales or service []
Church or charitable institution [X]
Child care or adult day care center [X]
Convenience store []
Other []

- Can customers or the public visit the site? [X] Yes [] No
Does the building contain assembly area (church, auditorium, or movie theater)? [X] Yes [] No
Is equipment brought to the site? [] Yes [X] No
Does the business contain any equipment beyond desktop computers? [] Yes [X] No
Are vehicles larger than an SUV parked onsite? [] Yes [X] No

I hereby certify that I have the authority to make the foregoing application on behalf of the named business or organization, that the information given is correct, that I have read and I understand the applicable zoning ordinances for the zoning district, and that this project will comply with all applicable Codes and Ordinances of the Town of Dumfries and the State of Virginia.

Applicant

Name FRED OMUSU YEBOAH
Please Print

Address 2946 MYRTLEWOOD DR
DUMFRIES VA 22026

Signature [Handwritten Signature]

Phone 703 599 8112

Email Fred.yeb@yahoo.com

05.18.2016

To Whom It May Concern

The Apostles' Continuation Church, Virginia Assembly humbly writes this letter in support of its application for a Conditional Use Permit. The Apostles' Continuation Church is a nondenominational church with an average of 50 members, seeking to offer people the opportunity to deepen their spiritual life. The church will be meeting at the proposed premises on Fridays from 10pm to 1am and on Sundays from 9am to 1pm. Relocating to this Dumfries/Triangle location will give our church the opportunity for our congregation to grow and increase our involvement in the Dumfries Community through donations to the local food bank, emergency shelter, volunteering at the local school, toy drives for kids, etc.

We hope our application in support of a Conditional Use Permit will be favorably considered.

Thank You,



ACC

Fred Yeboah

Church Elder

Accivirginiaassembly@gmail.com

Fredyeb@yahoo.com

Emmanuelackomdafo@yahoo.com

The Apostle's Continuation Church International, Virginia Assembly

Tel: (571) 598-7208

17463 Jefferson
Davis Hwy
Dumfries, Virginia
22026

ACCIVirginiaassembly@gmail.com



AT A REGULAR MEETING OF THE DUMFRIES TOWN COUNCIL HELD ON WEDNESDAY, MAY 7, 2014, IN COUNCIL CHAMBERS, 17755 MAIN STREET, DUMFRIES, VIRGINIA: ON A MOTION DULY MADE BY MS. FORRESTER, AND SECONDED BY MS. REYNOLDS, THE FOLLOWING RESOLUTION WAS ADOPTED BY THE FOLLOWING VOTE:

Charles C. Brewer, no;
Gerald M. Foreman, II, yes;
Kristin W. Forrester, yes;
Helen D. Reynolds, yes;
Willie J. Toney, yes;
Gwen P. Washington, yes;
Derrick R. Wood, yes;

RESOLUTION TO APPROVE CONDITIONAL USE PERMIT TO ALLOW FOUNTAIN GATE CHAPEL TO OPERATE AT 18037 DUMFRIES SHOPPING PLAZA

WHEREAS, the Town of Dumfries has received a conditional use permit application to allow for a place of worship, namely Fountain Gate Chapel, to operate in the B-1 General Business Zoning District located at 18037 Dumfries Shopping Plaza; and

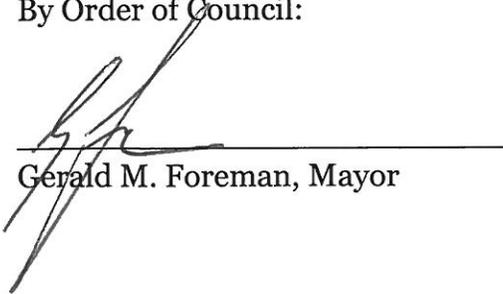
WHEREAS, the Planning Commission reviewed the application February 10, 2014, making the condition that church members park in the parking spaces adjacent to Rite Aid and Graham Park Road; and

WHEREAS, on March 10, 2014, the Planning Commission held a public hearing and voted to move the application forward to Town Council for review with the recommendation to approve with the condition that all vehicles be parked in the parking spaces adjacent to Rite Aid and Graham Park Road; and

WHEREAS, the Town Council reviewed the application at the March 18, 2014 work session, and held a public hearing on May 7, 2014.

NOW, THEREFORE, BE IT RESOLVED by Town Council that the conditional use permit, CUP #2014-003, for Fountain Gate Chapel to be located at 18037 Dumfries Shopping Plaza be approved with the condition that all vehicles be parked in the parking spaces adjacent to Rite Aid and Graham Park Road.

By Order of Council:


Gerald M. Foreman, Mayor

ATTEST:


Dawn Hobgood, Town Clerk

Resolution Number R-2014-032