



RE: The Lampost  
6 Circuit Ave.  
Oak Bluffs, MA, Map 9 Parcel 22

Town of Oak Bluffs, Massachusetts  
Office of the Planning Board  
P.O. Box 1327  
Oak Bluffs, MA 02557  
508-693-3554 x154  
PLANNING BOARD

**NOTICE OF DECISION                      September 6, 2018**

**RE: The Lampost Special Permit and Site Plan Review Application**

**Windsor Circuit Ltd.  
(The Lampost)  
6 Circuit Ave., Oak Bluffs, MA  
Map 9 Parcel 22, zoning district B1**

The Oak Bluffs Planning Board held a Public Hearing on Thursday, August 23, 2018 at 5:00 p.m. in the Upstairs Meeting Room at the Oak Bluffs Fire Station located at 6 Firehouse Lane, Oak Bluffs on the application of the referenced petitioners seeking:

*A Special Permit and Site Plan Review under Section 7.2 of the Zoning Bylaws and sections 10.3 and 10.4 or any action related thereto, to convert the top three floors of a five-story nightclub/restaurant into ten residential apartments for seasonal and year-round workforce rental housing.*

**DECISION:**                      A motion was made to grant the special permit and approve the site plan based on the submitted plans and findings under Zoning Bylaws 7.2.4, 7.2.5 and 7.2.6. of Section 7 and Section 10.3. The Board, consisting of Ewell Hopkins (Chair), Mark Crossland (Vice Chair), Erik Albert, JoJo Lambert, and Donalexander Goss, voted 5-0 to grant the special permit and approve the site plan with Parking Mitigation as laid out under Zoning Bylaw Section 5.1.5.

**Procedural History:**

**History:**

10/14/16                      The Lampost project referred to Martha's Vineyard Commission as a Development of Regional Impact under 3.1a, 3.1b, 3.1c, and 3.1i; 4.1a, 4.1b; 4.2 and 8.2ii by the Oak Bluffs Planning Board.

01/26/17                      Project approved by the MVC, DRI 670.

- 11/14/17 By-law 7.2 Conversion of an Existing Building to Mixed Use (Commercial with Apartment Units) passed at town meeting.
- 05/18/18 Project with modifications referred again to the MVC Previous DRI's Modification by the Oak Bluffs Planning Board.
- 06/04/18 Project with modifications approved by the MVC, DRI 670-M.
- 07/17/18 Special Permit and Site Plan Review application filed with Town Clerk and received by the Planning Board.
- 07/17 & 8/17 Special Permit and Site Plan Review application distributed via e-mail to the Board of Health, Conservation Commission, Building Inspector, Director of Public Works, Police Chief, Fire Chief, Sewer Commissioner and Water District.
- 07/31/18 Notice of Planning Board Public Hearing posted at Town Hall and on web site.
- 07/31/18 Notice of Planning Board Public Hearing mailed to abutters (and abutters of abutters) within 300 feet, the applicant and abutting planning boards.
- 08/02/18 First Notice of Hearing published in *Martha's Vineyard Times*.
- 08/09/18 Second Notice of Hearing published in *Martha's Vineyard Times*.
- 08/23/18 Site visit, noticed and open to public.
- 08/23/18 MVC meeting to approve and sign written draft Decision 670-M.

**General Findings:**

1. The Site is located at **6 Circuit Ave.** in the B-1 Zoning District shown on **Assessors Map 9** as **Parcel 22**. The proposal is to convert the existing three (3) floors of commercial nightclub space to residential apartment units for seasonal and year-round workforce housing.
2. There will be a total of ten units (two 3-bedroom units and eight 2-bedroom units), each furnished with individual kitchens and sanitary facilities. The units will be accessed from an elevator and/or staircase from the street level, first floor commercial space.
3. The conversion to residential housing was previously approved by the Martha's Vineyard Commission (MVC) for dormitory style, workforce housing with a shared kitchen and sanitary facility design (DRI 670). On November 14, 2017, Oak Bluffs voted to change the Zoning By-Laws at Town Meeting to allow an apartment use in the B-1 district.

4. The proposed reconfiguration into ten (10) apartments is now allowed by the revised Oak Bluffs zoning. The modification increases the square footage by 1,500 sq. ft.; reduces the number of bedrooms from 24 to 22; increases the number of bathrooms from 5 to 10; and increases the number of kitchens from 3 to 10. *–MVC DRI #670-M Lampost Workforce Housing Conversion Modification Decision*

5. Per the DRI 670 Decision of January 10, 2016, the applicant proposed to provide workforce rental housing by converting the top three floors of a five-story nightclub/restaurant to workforce housing in two phases. *–MVC DRI #670-M Lampost Workforce Housing Conversion Modification Decision*

6. The 2016 DRI 670 Decision approved phase one included moving the existing entrance to the sports bar and to convert the third floor dance club to 14 employee bedrooms (double occupancy) with shared bathrooms, shared kitchen and a small common living area. *–MVC DRI #670-M Lampost Workforce Housing Conversion Modification Decision*

7. The approved phase two included converting the fourth floor to an additional seven (7) employee bedrooms (double occupancy) with shared bathrooms, kitchen and living area and the fifth floor to a 4-bedroom apartment. *–MVC DRI #670-M Lampost Workforce Housing Conversion Modification Decision*

8. The Commission approved the 2016 DRI 670 plan for conversion of the upper night club floors to workforce housing but did express some concern with the paucity of bathrooms and the fact that four of the dormitory style units on the second floor had no windows. *–MVC DRI #670-M Lampost Workforce Housing Conversion Modification*

**The modified plans:**

a. Reduce the total number of bedrooms from 24 to 22 bedrooms in ten individual apartments (plans show 39 beds) and increase the number of bathrooms from 5 to 10 bathrooms (one for each unit) and increase the number of kitchens from 3 to 10 (one for each unit). All units have windows. *(see Plans dated June 13, 2018.)*

b. Relocate the elevator to the middle of the building and create balconies on the second and third floors. *–MVC DRI #670-M Lampost Workforce Housing Conversion Modification*

c. Applicant stated they will bring the elevator into the interior behind the stairwell. *–Public Hearing on Aug. 23, 2018 (see Plans dated June 13, 2018.)*

d. The second floor will have three 2-bedroom apartments and one 3-bedroom apartment (18 beds).

e. The third floor will have three 2-bedroom apartments and one 3-bedroom apartment (15 beds).

f. The fourth floor will have two 2-bedroom apartments (6 beds) and a viewing and mechanicals deck.

6. The Martha's Vineyard Commission imposed a number of **conditions** which are detailed in **DRI 670-M** and are enforceable by the Town of Oak Bluffs' Building and Zoning enforcement officers. They are also detailed below:

a. Workforce Housing: As offered by the Applicant, the units shall be rented to employees of local businesses either as permanent year-round housing or temporary housing as needed. The rental workforce housing shall be for members of the seasonal or year-round workforce. The applicant shall provide the MVC with yearly rental documentation proving that the residential units are utilized by Island employees. The building shall be heated so that year-round workforce housing can be provided to workers.

b. Construction Scheduling: As offered by the Applicant, a Construction Management Plan shall be submitted for the review of the Martha's Vineyard Commission Land Use Planning Committee as to how construction will be staged and the timing of any sidewalk interruptions.

c. Energy: As offered by the Applicant, the building shall comply with the Martha's Vineyard Commission's "Energy and Environmental Building" DRI Policy.

d. Exterior Lighting: As offered by the Applicant, exterior lighting shall be limited to external sign illumination, security lighting, and emergency lights required by code, which are downward-shielded to prevent light spilling off the property. There shall be no flood lighting. All exterior lighting – except for security lighting, which shall be on motion detectors – shall be on timers and shall be turned off during the day as well during the night from one hour after the business closes at night to one hour before it opens in the morning. A final exterior lighting plan shall be submitted to and is subject to the approval of the MVC LUPC prior to the issuance of a CO.

e. Noise: As offered by the Applicant, there shall be no formal or informal activities on the property that exceed the Commonwealth of Massachusetts Department of Environmental Protection's Noise Control Regulation 310 CMR-7.1-0 at all boundaries of the property or that exceed the Town of Oak Bluffs noise regulations.

f. Wastewater, Groundwater and Storm Water Management: As offered by the Applicant, the proposed workforce housing shall be connected to the Oak Bluffs water and wastewater systems.

g. Scenic Values: As offered by the Applicant, final architectural plans and details, to be substantially the same as the plan approved by the Commission, shall be submitted for the review and approval of the MVC Land Use Planning Committee before a Building Permit is issued.

h. Modifications to MVC Decision 670-M: As offered by the Applicant, the applicant shall not alter the design or use of the premises from the approved plan, uses, and operating conditions without the approval of the Martha's Vineyard Commission.

**Applicable Laws and Decision Criteria:**

The application is governed by **Section 7.2** of the Zoning By-Laws (Conversion of an Existing Building to Mixed Use, Commercial with Apartment Units) as well as **Section 5.1.5** (Special Permit in the B-1 District); **Sections 10.3** (general special permit criteria) and **10.4** (site plan review criteria), among other provisions of the Zoning By-Laws, including MGL Chapter 40A, § 9.

**Specific Findings / Testimony:**

There was no public testimony in support of the project. There was no public testimony in opposition of the project. No members of the public were present at the Aug. 23, 2018, Public Hearing.

*Planning Board member Erik Albert* asked about the back deck; it does not appear to be covered from the Kennebec side and he thought there should be an overhang at the roofline. Applicant said he thought they could do that easily enough.

*Planning Board chairperson Ewell Hopkins* said that while the applicant had made a good argument against Parking Mitigation for the commercial space as they would be reducing its use, he thought that Parking Mitigation should apply to the new residential portion of the proposed plan.

**Specific Findings / Zoning By-Law 7.2:**

1. In accordance with **By-Law 7.2**, the **purposes** of Section 7.2.4 as set out in Section 7.2.1.1 and determined that the Applicant's project, as proposed and as conditioned herein and in MVC Decision DRI 670-M, meets the following:

- a. allows mixed use development in the B-1 zoning district while maintaining the unique character of Oak Bluffs by encouraging the preservation of existing buildings within the historic context and setting in which they were established;
- b. provides for a variety of housing needs, including reasonable, affordable accommodations for a fluctuating work force and opportunities to create moderate income and senior housing units, both of which would promote economic growth and stability in the existing B-1 district;

- c. permits a use that promotes rehabilitation and conversion of existing building in a manner that maintains the visual character of surrounding areas and reflects the architectural scale of existing development within the district;
- d. minimizes visual and functional conflicts between residential and nonresidential uses within and abutting the B-1 district; and
- e. allows for more compact development than may be permitted in residential zoning districts to reduce the impact of sprawl and traffic congestion.

2. In accordance with By-Law 7.2, the conditions under Section 7.2.5, the ground floor of the Applicant's project fronts Circuit Ave. and is reserved for non-residential use. Circulation and access to and from dwelling units will be allowed on the ground floor level and the design will be in harmony with the existing neighborhood.

3. In accordance with By-Law 7.2, the standards under Section 7.2.6, the proposed development meets the following standards:

- a. The commercial structure to be converted, reconstructed, restored or altered shall have variation in its overall architectural design, and plans depicting building elevations, building setbacks and exterior details (roofing, siding, glazing), of the proposal, including abutting structures, shall be included in the applicant's construction documents in order to assure compatibility with existing development.
- b. No building shall exceed the height currently allowed in the existing district.
- c. Size of units – Units shall conform to the provisions of the State Sanitary Code, 105 CMR 410, any other state regulations as may be applicable, and with the rules and regulations of the Board of Health.
- d. Bathroom, kitchen and other facilities – Units are not required to contain facilities and may share toilet, kitchen, or other facilities. Toilet and shower facilities shall conform to the provisions of the State Sanitary Code, 105 CMR 410, any other state regulations as may be applicable and with the rules and regulations of the Board of Health.
- e. All roof mounted mechanical equipment must be enclosed to reduce the noise of operation and eliminate visibility of such equipment from the equivalent of an adjoining second floor level. In no case shall roof mounted equipment or the accompanying enclosures exceed a height of 6 feet above the roof deck, or occupy more than 30% of the area of the roof surface.
- f. Building orientation, layout, and configuration shall be designed to provide adequate light and air for the proposed and adjoining buildings.

6. Under **Section 7.2.6.4 Parking**, the Planning Board determined that **Parking Mitigation under Section 5.1.5.3 of the Zoning By-Laws** is appropriate for the residential portion of this application, which states in part: *"when a proposed use in the B-1 District cannot meet the off street parking requirements, it may be waived by special permit granted by the Planning Board where the applicant makes a payment in lieu to the Oak Bluffs B-1 District Parking Mitigation Trust."*

#### **Oak Bluffs Zoning By-Law Site Plan Review Criteria (10.4)**

**Under Zoning By-Law 10.4, Section 10.4.3.3:** Where the Planning Board serves as the special permit granting authority, it shall consolidate its site plan review and special permit procedures.

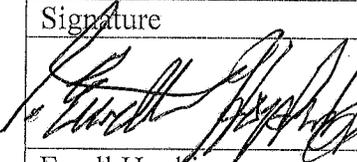
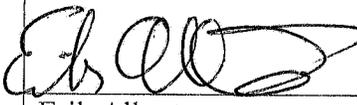
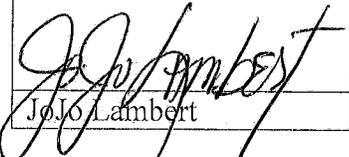
#### **Decision of the Board:**

Member Mark Crossland made a motion to grant the special permit under **Section 7.2.4 Conversion and Expansion or Tear Down and Re-Build with Expansion of Existing Building to Apartment Units** and approve the site plan with the conditions listed below. Members Erik Albert and JoJo Lambert seconded. A roll-call vote was taken and the Board, constituting a quorum and the required supermajority, consisting of Ewell Hopkins (Chair), Mark Crossland, Erik Albert, JoJo Lambert and Donalexander Goss (via phone), voted 5-0 to grant the special permit and approve the site plan with the following conditions and suggestions:

1. The special permit is subject to the conditions imposed on the applicant in the Decision of the Martha's Vineyard Commission on **DRI #670-M**. The MVC decision is attached to this document and is to be recorded as part of this decision.
2. **Condition:** The Planning Board imposes **Parking Mitigation** per Bylaw 5.1.5 to be applied to the top three (3) floors containing ten (10) residential apartments, based on the change of use from commercial to residential. The Planning Board waives Parking Mitigation to the commercial space. As of this date, the fee is \$875/year for ten spaces, which the Planning Board shall annually review and modify, after notice to the owner/applicant and hearing.
3. **Suggestion:** The applicant will adjust the design of the overhang in back in order to incorporate the decks more tightly into the project.
4. **Suggestion:** The applicant will tie in to existing storm water and surface water management infrastructure available by the Town on Circuit and Kennebec, where possible.

**D. Record of Board Vote.**

The members of the Planning Board voted as follows to grant a Special Permit subject to the above-stated terms and conditions:

Signature	In Favor	Against	Abstain	Recuse
 Ewell Hopkins	X			
 Erik Albert	X			
 Mark Crossland	X			
 Donalexander Goss	X			
 JoJo Lambert	X			

Filed with the Town Clerk on: \_\_\_\_\_ 2018

\_\_\_\_\_  
 Laura B. Johnston, Town Clerk

\_\_\_\_\_  
 , Assistant Town Clerk

Copy of Special Permit Mailed to:

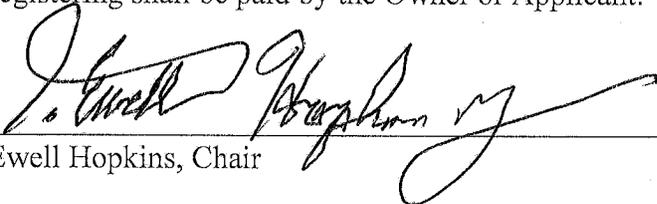
Windsor Circuit Ltd.  
 6 Circuit Ave., Oak Bluffs, MA 02557

All Noticed Parties (see abutter list)

The Planning Board of the Town of Oak Bluffs hereby certifies that a Special Permit has been granted Windsor Circuit Ltd., 6 Circuit Ave., Oak Bluffs, MA 02557, affecting the rights of the owner with respect to land or buildings at 6 Circuit Ave., Map 9, Parcel 22. Said Planning Board

further certifies that the decision attached hereto is a true and correct copy of its decision granting said special permit, and that copies of said decision, and of all plans referred to in its decision, have been filed with the town clerk.

The Planning Board also calls to the attention of the Owner or Application that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town clerk that twenty days have elapsed after the decision has been filed in the office of the town clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the Owner or Applicant.

  
\_\_\_\_\_  
Ewell Hopkins, Chair

Dated: Sept 6<sup>th</sup>, 2018

**This decision was filed in the office of the Town Clerk, on September 6, 2018. Appeals, if any, should be made pursuant to Section 17, of Chapter 40A of the Massachusetts General Laws and should be filed within 20 days of the filing of this decision in the office of the Town Clerk.**

\_\_\_\_\_  
Date Appeal Period Expired

I hereby certify that no appeal has been filed within the twenty day period following the date of the filing of this decision.

Attest: \_\_\_\_\_  
Laura Johnston, Town Clerk