Martha's Vineyard Commission

DRI #670-M2 Lampost Workforce Housing Modification – Staff Report 3/29/22

1. DESCRIPTION

1.1 Owner and Applicant: Windsor Circuit Ltd (Adam Cummings)

1.2 Project Location: 6 Circuit Ave. (Map 9, Lot 22), Oak Bluffs (0.15 acres)

1.3 Proposal: Modification of the housing conditions for DRI 670-M to reduce the number of units restricted to workforce housing from 10 to 4.

1.4 Zoning: Business 1 (B1)

1.5 Local Permits: Special Permit modification

1.6 Surrounding Land Uses: Other business, residential, and multiple uses on Circuit and Kennebec Avenues.

1.7 Project History: The MVC approved DRI 670 in 2017, as a workforce housing development project allowing for the top three floors of the building at 6 Circuit Ave. to be converted from a dance club, bar, and storage facility in two phases. Phase one included moving the entrance to the sports bar below and converting the third floor to 14 employee bedrooms with shared bathrooms, kitchen, and living area. Phase two included converting the fourth floor to an additional seven employee bedrooms with shared bathrooms, kitchen, and living area, and converting the fifth floor to a four-bedroom apartment. All bedrooms were to be double occupancy.

Following the adoption of Oak Bluffs Bylaw Section 7.2 pertaining to the conversion of existing buildings to mixed-use, DRI 670 was modified in 2018 (DRI 670-M) to allow for 10 apartments in the top three floors of the building, rather than the mix of apartments and dormitory bedrooms. The modification also increased the square footage by 1,500 ft², reduced the total number of bedrooms from 24 to 22, increased the number of bathrooms from five to 10, and increased the number of kitchens from three to 10. The modification was approved without a public hearing, with the following conditions related to housing:

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1 Section 7.2, Conversion of an Existing Building to Mixed Use (Commercial with Apartment Units), allows the Planning Board to issue Special Permits for mixed-use projects in the B1 district. It also increased the allowable number of apartment units for certain projects, depending on the total lot area. The bylaw includes the following statement of purpose:

- Allow 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.
- Provide for a variety of housing needs, including reasonable, affordable accommodations for a fluctuating workforce 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.
- Permit uses that promote rehabilitation and conversion of existing buildings in a manner that maintains the visual character of surrounding areas and reflects the architectural scale of existing development within the district.
- Minimize visual and functional conflicts between residential and nonresidential uses within and abutting the B1 district.
- Allow for more compact development than may be permitted in residential zoning districts to reduce the impact of sprawl and traffic congestion.
1.1 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. [Same as for DRI 670.]

1.2 The rental workforce housing shall be for members of the seasonal or year-round workforce.

1.3 The Applicant shall provide the MVC with yearly rental documentation proving that the residential units are utilized by Island employees.

1.4 The building shall be heated so that year-round workforce housing can be provided to workers.

The Oak Bluffs Planning Board issued a Special Permit in 2018 “to convert the top three floors of a five-story nightclub/restaurant into ten residential apartments for seasonal and year-round workforce rental housing,” noting the MVC conditions for DRI 670-M.

Units 6, 8, 9, and 10 have since been used as short-term rentals through Airbnb, rather than as workforce units. MVC staff initiated a compliance process in mid-2021 and then convened a formal meeting of the Compliance Committee in late 2021. A summary of how the 10 existing units have been used since 2019, based on documentation provided by the applicant, is available here. The applicant’s responses to LUPC questions in February regarding how the units have been used, including rental amounts, is available here.

In terms of current compliance, the applicant stated in March that all units had been removed from Airbnb and that Airbnb rentals for the summer had been canceled; that seven of the 10 units were currently being rented by local employees and the others unoccupied; and that no unit would be rented to anyone other than local employees until the modification review was complete.

MVC Compliance Process (2021-2022):

6/17/21: Oak Bluffs Affordable Housing Committee chair informed MVC staff that some of the units were being rented through Airbnb.
7/19/21: Staff met with owner to discuss the situation and possible next steps, including the option to request a modification.
8/10/21: Staff sent compliance letter to owner, owner’s attorney, and town officials.
9/20-28/21: Staff sent follow-up emails to the owner and others.
12/3/21: MVC Compliance Committee met to discuss next steps.
12/7/21: Compliance Committee chair sent letter to owner and others, setting one-week deadline to comply with the MVC conditions, before recommending legal action to the MVC.
12/9/21: MVC agreed to allow 30 days for the owner to submit a request for modification. The owner also agreed to not accept any further Airbnb reservations until the issue was resolved.
1/5/22: Modification request was submitted, and later amended on 1/20/22.

1.8 Project Summary: The request for modification states that there is a disagreement between the applicant and MVC over the phrase “as needed” in condition 1.1. The request is to modify the current housing conditions for DRI 670-M as follows (changes in red):

1.1 As offered by the Applicant, four (4) units with a total of nine (9) bedrooms shall be rented to employees of local businesses either as permanent year-round housing or temporary housing as needed.
1.2 The rental workforce housing shall be for members of the seasonal or year-round workforce.
1.3 The Applicant shall provide the MVC with yearly rental documentation proving that the residential units are utilized by Island employees, no later than December 31st of each year.

The request includes the following explanation:

There are ten (10) residential units of housing contained in the Lampost Conversion. The Applicant is permitted four (4) units of unrestricted apartment use pursuant to Section 7.2 of the Oak Bluffs Zoning By-Laws. By Special Permit the remaining six (6) units of housing are permitted. The modification request aligns the project with similarly approved projects, such as the Phillips Hardware approval which restricted two (2) of eight (8) units (a total of three (3) bedrooms) for workforce housing (25%). This modification request would require forty (40%) percent of the residential units in the building to [be] utilized for workforce housing.

Units 1-4 as shown in the as-built plans would be restricted as workforce housing.

2. **ADMINISTRATIVE SUMMARY**

2.1 **Request for Modification:** Jan. 5, 2022
2.2 **DRI Trigger:** 1.3D (Modification to Previous DRI)
2.3 **LUPC:** Feb. 28, 2022
2.4 **Public Hearing:** April 14, 2022

3. **PLANNING CONCERNS**

3.1 **Island Housing Needs:** The project as originally proposed and modified was for the conversion of existing commercial space into workforce housing. The MVC noted in its decision for DRI 670 that the proposal was a benefit in terms providing housing that could be used by the applicant’s employees and those of other Island businesses.

The proposed modification would reduce the number of required workforce units from 10 to four, and the number of associated beds from 22 to nine (about a 60% reduction in both cases). The six non-workforce units would most likely be used as short-term rentals.

3.2 **Economic Development:** The proposed modification would create further opportunities for short-term lodging in Oak Bluffs, which could in turn support the local tourism industry. However, the proposal would also eliminate units from the local workforce housing stock, with potential negative impacts on Island businesses and workers. It should be noted that only seven of the 10 units have been used as workforce housing so far, and in some cases informally or infrequently since 2019. Four of the 10 units were rented through Airbnb in 2021.