1. SUMMARY

Referring Board: Building Inspector, Town of Oak Bluffs, MA

Subject: Development of Regional Impact # 670
Lampost Conversion to Workforce Housing

Project: Proposal to convert the top three floors of a five-story nightclub/restaurant to workforce housing in two phases.

Owner: Windsor Circuit Ltd; Adam Cummings;

Applicant: Windsor Circuit Ltd; Adam Cummings;

Applicant Address: C/O Geoghan Coogan, Esq., 4A Causeway Road, Vineyard Haven, MA

Project Location: 6 Circuit Avenue, Oak Bluffs, MA (Map 9 Lot 22)

Description: The proposal is to convert the top three floors of a five-story nightclub/restaurant to workforce housing in two phases. The third and fourth floors are currently a dance club and the fifth floor is storage. Phase one includes moving the entrance to the sports bar and to convert the third floor dance club to 14 employee bedrooms with shared bathrooms, kitchen and living area. Phase two includes converting the fourth floor to an additional 7 employee bedrooms with shared bathrooms, kitchen and living area and the fifth floor to a 4-bedroom apartment and also includes an elevator. Bedrooms would be double occupancy.

Decision: The Martha's Vineyard Commission (the Commission) approved the application for the project as a Development of Regional Impact with conditions, at a vote of the Commission on December 15, 2016.

Written Decision: This written decision was approved by a vote of the Commission on January 19, 2017.

The permit-granting authorities of the Town of Oak Bluffs may now grant the request for approval of the Applicant’s proposal in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law, or may deny the request for approval.
2. FACTS

The exhibits listed below including the referral, the application, the notice of public hearing, the staff report, the plans of the project, and other related documents are incorporated into the record herein by reference. The full record of the application is kept on the premises of the Martha's Vineyard Commission.

2.1 Referral

1.1 The project was referred to the Commission on October 14, 2016 by the Building Inspector of the Town of Oak Bluffs, MA for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act) and the Commission’s Standards and Criteria Administrative Checklist for Developments of Regional Impact, Sections 3.1a; 3.1b; 3.1c; 3.1i; 4.1b; 4.2; 8.2ii. 3.1a (Development of commercial over 3,000 sf); 4.1b (10 or more rooms for rent); and 4.2 (Mixed Use Development) require mandatory DRI Review through the public hearing process and the project was reviewed as such by the Martha's Vineyard Commission.

2.2 Hearings

Notice: Public notice of a public hearing on the Application was published in the M.V. Times on November 17, 2016.

Hearings: The Commission held a public hearing on the Application that was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831 on December 1, 2016.

2.3 The Plan

The following plans and documents submitted by the Applicant and contained in the Commission’s project file constitute “the Plan.”

P1  "Lampost Apartments - 6 Circuit Avenue, Oak Bluffs: GROUND FLOOR PLAN; Job #16L03 Drawing 0" consisting of one 11" X 17" sheet showing the existing ground floor plan indicating no changes to ground floor, prepared by Maurice O’Connor Architect, P.O. Box 293, Oak Bluffs, MA 02557. Dated 10-07-16

P2  "Lampost Apartments - 6 Circuit Avenue, Oak Bluffs: FIRST FLOOR PLAN; Job #16L03 Drawing 1" consisting of one 11" X 17" sheet showing the proposed changes to the first floor, prepared by Maurice O’Connor Architect, P.O. Box 293, Oak Bluffs, MA 02557. Dated 10-07-16

P3  "Lampost Apartments - 6 Circuit Avenue, Oak Bluffs: SECOND FLOOR PLAN; Job #16L03 Drawing 2" consisting of one 11" X 17" sheet showing the proposed changes to the second floor, prepared by Maurice O’Connor Architect, P.O. Box 293, Oak Bluffs, MA 02557. Dated 10-07-16

P4  "Lampost Apartments - 6 Circuit Avenue, Oak Bluffs: THIRD FLOOR PLAN; Job #16L03 Drawing 3" consisting of one 11" X 17" sheet showing the proposed changes to the third floor, prepared by Maurice O’Connor Architect, P.O. Box 293, Oak Bluffs, MA 02557. Dated 10-07-16

P5  "Lampost Apartments - 6 Circuit Avenue, Oak Bluffs: FOURTH FLOOR PLAN; Job #16L03 Drawing 4" consisting of one 11" X 17" sheet showing the proposed changes to the fourth
floor, prepared by Maurice O’Connor Architect, P.O. Box 293, Oak Bluffs, MA 02557. Dated 10-07-16

P6 “Lampost Apartments - 6 Circuit Avenue, Oak Bluffs: WEST EXTERIOR ELEVATION; Job #16L03 Drawing 5” consisting of one 11” X 17” sheet showing the proposed exterior elevation on the west side, prepared by Maurice O’Connor Architect, P.O. Box 293, Oak Bluffs, MA 02557. Dated 10-07-16. SCALE: 1/8” = 1'-0"

P7 “Lampost Apartments - 6 Circuit Avenue, Oak Bluffs: NORTH EXTERIOR ELEVATION; Job #16L03 Drawing 6” consisting of one 11” X 17” sheet showing the proposed exterior elevation on the north side, prepared by Maurice O’Connor Architect, P.O. Box 293, Oak Bluffs, MA 02557. Dated 10-07-16. SCALE: 1/8” = 1'-0"

P8 “Lampost Apartments - 6 Circuit Avenue, Oak Bluffs: EAST EXTERIOR ELEVATION; Job #16L03 Drawing 7” consisting of one 11” X 17” sheet showing the proposed exterior elevation on the east side, prepared by Maurice O’Connor Architect, P.O. Box 293, Oak Bluffs, MA 02557. Dated 10-07-16. SCALE: 1/8” = 1'-0"

P9 “Lampost Apartments - 6 Circuit Avenue, Oak Bluffs: SOUTH EXTERIOR ELEVATION; Job #16L03 Drawing 7” consisting of one 11” X 17” sheet showing the proposed exterior elevation on the south side, prepared by Maurice O’Connor Architect, P.O. Box 293, Oak Bluffs, MA 02557. Dated 10-07-16. SCALE: 1/8” = 1'-0"

P10 “Lampost Apartments - 6 Circuit Avenue, Oak Bluffs: SITE PLAN; Job #16L03 Drawing L-01 ” consisting of one 11” X 17” sheet showing the proposed site plan, prepared by Maurice O’Connor Architect, P.O. Box 293, Oak Bluffs, MA 02557. Dated 10-07-16.

P11 “Lampost Apartments - 6 Circuit Avenue, Oak Bluffs: Title Page; Job #16L03 ” consisting of one 11” X 17” sheet showing the front elevation and two perspectives and listing the plans above, prepared by Maurice O’Connor Architect, P.O. Box 293, Oak Bluffs, MA 02557.

P12 “DRI 670 Lampost Offers” consisting of one 8.5” X 11” sheet with written offers relating to wastewater, night lighting and noise, scenic values, workforce housing, and construction process, prepared by Geoghan Coogan (Attorney) Dated December 8, 2016.

2.4 Other Exhibits

E1. Referral to the MVC from the Oak Bluffs Building Inspector; October 14, 2016

E2. Staff Report, by Paul Foley, MVC DRI Coordinator, with the assistance of other staff members, November 8, 2016.


E7. Minutes of the Commission’s Approval of the Written Decision, January 19, 2017

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2.5 **Summary of Testimony**

The following is a summary of the principal testimony given during the public hearing on December 15, 2016:

- Presentation of the project by Adam Cummings (Owner), Geoghan Coogan (Attorney) and Maurice O'Connor (Architect).
- Staff report by Paul Foley, MVC DRI coordinator.
- Oral testimony from Public: Laurine Riley.

3. **FINDINGS**

3.1 **Project Description**

- The proposal is to convert the top three floors of a five-story nightclub/restaurant to workforce housing in two phases.
- The third and fourth floors are currently a dance club and the fifth floor is storage.
- Phase one includes moving the entrance to the sports bar and to convert the third floor dance club to 14 employee bedrooms with shared bathrooms, kitchen and living area.
- Phase two includes converting the fourth floor to an additional 7 employee bedrooms with shared bathrooms, kitchen and living area and the fifth floor to a 4-bedroom apartment. Phase two would also include an elevator.
- Bedrooms would be double occupancy.
- The Applicants plan to ask the Wastewater Commission to convert their nightclub capacity of the top floors from 445 people to 48 residential seasonal employees. They estimate that the change will go from 15,000 gallons per day (gpd) to 2,800 gpd.
- Exterior changes to the existing building include moving the location of the front door to the sports bar; adding dormers and decks on the upper floors in phase two; and an elevator encasement.
- In 2015 the Lampost employed 42 seasonal staff. They expect that to drop to about 30 with the proposal. Some of the workforce housing created in this proposal would be for employees of other establishments as well.

3.3 **Statutory Authority**

The purpose of the Commission, as set forth in Section 1 of the Act, is to “protect the health, safety and general welfare of island residents and visitors by preserving and conserving for the enjoyment of present and future generations the unique natural, historical, ecological, scientific and cultural values of Martha’s Vineyard which contribute to public enjoyment, inspiration and scientific study by protecting these values from development and uses which would impair them, and by promoting the enhancement of sound local economies.”

The Commission has reviewed the proposal as a Development of Regional Impact, using the procedures and criteria that the Commission normally uses in evaluating the benefits and detriments of such a proposal. The Commission has considered the Application and the information presented at the public hearing, including listening to all the testimony presented and reviewing all documents and correspondence submitted during the hearing and review period.

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3.4 Benefits and Detriments
Based on the record and testimony presented therein, the Commission finds the following pursuant to Sections 14 and 15 the Act.

A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED DEVELOPMENT WOULD EXCEED THE PROBABLE DETRIMENTS, AS EVALUATED CONSIDERING THE CONSIDERATIONS SET FORTH IN SECTION 14(a) OF THE ACT.

A1 The Commission finds that the proposed development at this location is appropriate in view of the available alternatives (Section 15(a) of the Act.)

The Commission finds that the project provides needed workforce housing and is improving an existing historic building in a manner that is in keeping with the mass, scale and design of the historic downtown.

A2 The Commission finds that the proposed development would have a minimal impact upon the environment relative to other alternatives (Section 15(b) of the Act).

With respect to Wastewater and Groundwater, the Commission finds that the project is a slight benefit because the project will continue to be connected to the town sewer but should take up less capacity than the current nightclub use.

With respect to Open Space, Natural Community and Habitat, the Commission finds that the proposal will have no change and that there is currently no open space or habitat and it is appropriately located in the commercial downtown.

With respect to Night Lighting and Noise, the Commission finds that with night lighting the proposal will have no change and that with respect to noise the proposal is a benefit because the workforce housing should create less noise than the night club.

A3 The Commission finds that the proposed development would have a beneficial overall effect upon other persons and property (Section 15(c) of the Act).

With respect to Traffic and Transportation, the Commission finds that the proposal is a benefit because the workforce housing should create less traffic than the night club.

With respect to Scenic Values, Character, and Identity: The Commission finds that the project is a benefit because the workforce housing should have less impact than the nightclub.

With respect to the Impact on Abutters, the Commission finds that the project completes the build-out of downtown and the Applicant is voluntarily adding public sidewalks on private land.

A4 The Commission finds that the proposed development would have a beneficial impact upon the supply of needed low and moderate income housing for island residents (Section 15(d) of the Act).

The Commission finds that the proposal is a benefit because it incorporates workforce housing for this business and may accommodate the workforce housing needs of other businesses.
A5 The Commission finds that the proposed development would have beneficial impacts on the provision of municipal services or burden on taxpayers in making provision therefore (Section 15(e) of the Act).

With respect to impact on services and burden on taxpayers the Commission finds that the proposal is a slight benefit because it will have no impact on schools and may decrease the impact on police services.

A6 The Commission finds that the proposed development would use efficiently and not unduly burden existing public facilities (other than municipal) or those that are to be developed within the succeeding five years. (Section 15(f) of the Act).

A7 The Commission finds that the proposed development does not interfere with the ability of the municipality to achieve the objectives set forth in the municipal general plan. (Section 15(g) of the Act).

A8 The Commission finds that the proposed development would not contravene land development objectives and policies developed by regional or state agencies. (Section 15(h) of the Act).

In sum, after careful review of the plan and its attendant submittals and the testimony presented by the Applicant and others, and the addition of conditions, the Commission has concluded that the probable benefits of this proposed development in this location exceed its probable detriment considering the considerations set forth in section 14(a) of the Act.

B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WOULD BE CONSISTENT WITH THE LAND DEVELOPMENT OBJECTIVES OF THE COMMISSION, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(b) OF THE ACT.

The requested project, as a whole, advances the Commission’s land development objectives, as outlined in the Martha’s Vineyard Commission Regional Policy Plan adopted by the Commission in June 1991 and the Island Plan adopted by the MVC in December 2010.

C. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH MUNICIPAL DEVELOPMENT ORDINANCES AND BY-LAWS, TO THE BEST OF THE COMMISSION’S KNOWLEDGE.

D. THE COMMISSION FINDS THAT THE SITE IS IN CONFORMANCE WITH THE REGULATIONS OF DISTRICTS OF CRITICAL PLANNING CONCERN, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(d) OF THE ACT.

The Commission finds that the proposed development is not located within any District of Critical Planning Concern (DCPC).
4. DECISION
The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on December 15, 2016 and made its decision at the same meeting. The following Commissioners, all of who participated in all hearings and deliberations on this project, participated in the decision on December 15, 2016:
- Voting against: none
- Abstentions: none

Based on this vote, the Commission approved the application for the project as a Development of Regional Impact with the conditions listed in section 5 below.

This written Decision is consistent with the vote of the Commission December 15, 2016 and was approved by vote of the Commission on January 19, 2017.

5. CONDITIONS
After reviewing the proposal for this Development of Regional Impact, the Martha’s Vineyard Commission imposes the following conditions to increase the benefits and minimize the detriments of the project. The analysis of benefits and the resulting decision to approve the project is based on the proposal as modified by these conditions. These conditions form an integral and indispensable part of this decision.

These conditions are an essential part of this decision and shall be enforced as written. The primary enforcement agent for the compliance of these conditions is the building and zoning enforcement officer of the Town. If the Commission or the Town finds it necessary to seek judicial relief to enforce the condition, the Applicant, or its successors in title at the time of such proceedings, shall pay the Commission’s and/or Towns attorney’s fees and costs incurred in obtaining judicial relief.

1 Workforce Housing:
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.

2 Construction Scheduling:
2.1 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.

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

4 Exterior Lighting:
4.1 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.
4.2 As offered by the Applicant, 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 store closes at night to one hour before it opens in the morning.

4.3 As offered by the Applicant, 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.

5 **Noise:**

5.1 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 7.10 at all boundaries of the property or that exceed the Town of Oak Bluffs noise regulations.

6 **Wastewater, Groundwater And Storm water Management:**

6.1 As offered by the Applicant, the proposed workforce housing shall be connected to the Oak Bluffs water and wastewater systems.

7 **Scenic Values:**

7.1 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.

8 **Modifications to this Decision**

8.1 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.

6. **CONCLUSION**

6.1 **Permitting from the Town**

The Applicant must, consistent with this Decision, apply to the appropriate Town of Oak Bluffs Officers and Boards for any local development permits which may be required by law.

The permit-granting authorities of the Town of Oak Bluffs may now grant the request for approval of the Applicant's proposal in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law, or may deny the request for approval. Any permit issued by the Town shall incorporate the plan approved by the MVC and the above conditions.

6.2 **Notice of Appellate Rights**

Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Oak Bluffs Town Clerk.
6.3 **Length of Validity of Decision**

The Applicant shall have two (2) years from the date of receipt of the Decision of the Martha’s Vineyard Commission contained in this document to begin substantial construction. Should substantial construction not occur during said two (2) year period, this Decision shall become null and void and have no further effect. This time may be extended upon written request from the Applicant and written approval from the Martha’s Vineyard Commission.

6.5 **Signature Block**

James Ver Cruysse, Chairman

Date 1-26-17

6.6 **Notarization of Decision**

Commonwealth of Massachusetts
County of Dukes County

On this date of January, before me, Notary Lee Stewart, the undersigned Notary Public, personally appeared James Ver Cruysse, proved to me through satisfactory evidence of identity, which was/ were prints to be the person(s) whose name(s) was/were signed on the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief.

Notary Lee Stewart
Signature of Notary Public

Printed Name of Notary
My Commission Expires Feb. 24, 2023

6.5 **Filing of Decision**

Filed at the Dukes County Registry of Deeds, Edgartown, on: February 7, 2017

Deed – Book DEC 1429, page 916

DONNA-LEE STEWART
Notary Public
Commonwealth of Massachusetts
My Commission Expires February 24, 2023