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Nazih Elkalassi, Chairman
Wareham Zoning Board of Appeals
Town Hall
54 Marion Road
Wareham, MA 02571

RE: Request for Insubstantial Change
Settler's Glen Comprehensive Permit

Dear Chairman Elkalassi:

As you will recall, I represent Settler's Glen, LLC (SGLLC). On July 19, 2021, MassHousing approved the transfer of the comprehensive permit your Zoning Board of Appeals (ZBA) granted to TGCI EMNACA LLC to SGLLC.

In the fall of 2021, SGLC applied to the ZBA for an insubstantial change to convert the project from homeownership to rental. The ZBA rejected the characterization of the change as insubstantial, determined that the change was substantial, and, after a public hearing, denied the substantial change.

SGLLC appealed the ZBA's decision to the Housing appeals Committee (HAC). The case was docketed as *Settler's Glen, LLC v. Wareham ZBA*, HAC No.: 21-12. After a Conference of Counsel, the matter was sent to mediation. Attorney Arthur Kreiger served as the Mediator.

After two mediation sessions last week, the parties reached a tentative agreement, subject to approval by the full ZBA. I hereby request the ZBA's approval of the following amendments to the original comprehensive permit as an insubstantial change:

1. In the second bullet under Finding 1, delete the words "and with respect to building an ownership project, that profit to the Applicant is not more than 20%" and substitute the words "with respect to building a rental Project."
2. In the paragraph under the caption "DECISION" delete the words "for the construction of twenty (20) residential ownership dwelling units" and substitute "for the construction of twenty (20) residential rental dwelling units."

3. In Condition A.5, delete the words “The Project shall include the construction of twenty (20) units of home ownership housing in ten dwellings,” and substitute “The Project shall include the construction of twenty (20) units of rental housing in ten dwellings.”

4. In Condition A.6, delete the words “Of the twenty (20) ownership units, a total of five (5) units shall be "affordable",” and substitute the words” Of the twenty (20) rental units, a total of five (5) units shall be "affordable".”

Also add the following sentence at the end of Condition A.6: “The Applicant shall make a good faith effort to obtain Project-Based Affordable Housing Vouchers for two (2) of the five (5) affordable units from NeighborWorks Housing Solutions or a comparable nonprofit entity.”

5. Delete Condition A.11 in its entirety, and substitute the following: “All residential units approved under this Comprehensive Permit shall be for rental only, to be professionally managed at the expense of the Applicant.

6. Delete the last sentence of Condition A.16 in its entirety.

7. In Condition B.1, delete the words “they shall be available for sale” and substitute the words “they shall be available for rent.”

8. In Condition B.1, last sentence, delete the words “for the initial sale of such Affordable Units,” and substitute the words “for the initial rental of such Affordable Units.”

9. Delete Condition B.3 in its entirety and substitute the following:

The Applicant shall develop a marketing plan for the Affordable Units for review and approval of the Subsidizing Agency, said plan to conform to any and all affirmative action requirements or other requirements as imposed by federal or state regulation and shall conform with the local preference requirement set forth above.

10. Delete Condition B.5 in its entirety and substitute the following:

To the extent allowed under G.L. c. 40B and the regulations promulgated thereunder and other applicable law, with respect to at least 70% of the affordable units, the Applicant shall provide a preference category for Wareham residents. The Town shall be responsible for providing the Applicant with all necessary information and data to support the local preference request as further detailed in paragraph 21. This preference shall be implemented by the Applicant and the Applicant shall maintain records of its marketing efforts, which records shall be open to review by the Town for compliance with the local preference set forth herein. The local preference shall be implemented pursuant to procedures approved by the Subsidizing Agency. The costs associated with the marketing of units in the Project, including the advertising and processing for the Affordable Units shall be borne by the Applicant.

11. In Condition B.7, delete the words “designated for sale” and substitute the words “designate for rental.”

12. Add a new Condition B.8, as follows:

The Applicant shall annually recertify to the Subsidizing Agency, or less frequently as may be required by the Subsidizing Agency, the continuing eligibility of any tenant in an affordable unit. If a previously eligible tenant becomes ineligible to occupy an affordable unit, the Applicant may charge the tenant a market rate rent; however, the Applicant shall comply with the Subsidizing Agency’s requirements for converting another unit to an Affordable Unit. Upon request, the Applicant shall provide the Town with all necessary information to determine whether the required affordability levels are in place.

13. Add the following new Condition D.7:

The Applicant shall install a small playground designed for toddlers in the landscaped area at the end of the cul-de-sac. The playground may also include a bocci court.

14. At the end of Condition F.1, add the following:

The Applicant shall install internet cable along with the other underground utilities shown on the Approved Plans.

15. Delete Section G of the Conditions in its entirety and substitute the following:

G. Management Requirements

The Applicant shall provide 24/7 monitoring of the Project, either by on-site management or an off-site management entity that is available by phone 24/7. In the event the Applicant engages a management company, the Applicant shall post the name and telephone number of the management company in each building in a prominent place and shall provide the ZBA and Town with a current copy of the management contract upon request.

The on-site driveways, roads, utilities, drainage systems, and all other infrastructure shown on the Approved Plans as serving the Project shall remain private and the Town of Wareham shall not have, now or ever, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal, and landscape maintenance.

16. Add the following new Condition H.3:

At the issuance of the tenth certificate of occupancy, the Applicant shall pay the sum of \$5,000.00 to the Wareham Affordable Housing Trust. At the issuance of the twentieth certificate of occupancy, the Applicant shall again pay the sum of \$5,000.00 to the Wareham Affordable Housing Trust.

In addition, in order to bring the two conditions set forth in the ZBA's "Water Enforcement Permit, dated February 8, 2022, within the jurisdiction of the HAC, the Applicant requests the ZBA to again approve the following conditions, taken verbatim from the Water Enforcement Permit, as insubstantial changes:

17. The looped 8" water main will be installed by the Applicant, through the easement, to the property line at Cranberry Highway.

18. The Applicant will be responsible for the rate sheet of fees published at the time the comprehensive permit was issued showing an amount of \$42,840.00 for the Red Brook Road 8" water main tap and the 20 1" service fee taps of \$3,540.00 each in total to satisfy the system expansion and fee requirements. No other fees shall apply.

Thank you for your consideration. If you have any questions, please let me know.

Very truly yours,

Mark Bobrowski

cc: Atty. Bowen
Atty. Kreiger
SGLLC