

STATE OF NORTH CAROLINA
ORANGE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24CV003340-670

KEPSC HILLSBOROUGH LLC,)
)
Plaintiff,)
)
v.)
)
THE TOWN OF HILLSBOROUGH, a)
North Carolina Municipality,)
)
Defendant.)
)
_____)

CONSENT ORDER

This matter came before the undersigned Superior Court Judge upon the request and with the consent of the Plaintiff KEPSC HILLSBOROUGH LLC (“Plaintiff” or “KEPSC”) and Defendant TOWN OF HILLSBOROUGH (“Defendant” or the “Town”) (collectively, the “Parties”). The Parties represent to the Court that they have reached a settlement of all matters at issue in this case and have requested that the Court enter this Consent Order in accordance with the terms set forth herein.

Upon the Parties’ request and consent, as evidenced by the signatures below, the Court finds as follows:

1. KEPSC is the owner of an approximately 13.41-acre parcel within the corporate limits of the Town of Hillsborough, located at 715 U.S. Highway 70 East, with parcel identification number 9874-49-0155 (the “Property”). The current zoning designation of the Property is Assisted Living Neighborhood (“ALN”). In 2006 and 2008, KEPSC’s predecessor-in-interest was issued a special use permit and amended special use permit to develop the Property as a multi-unit assisted housing with services or continuing

care retirement community. The special use permit also incorporated a larger adjoining parcel, which was ultimately developed as single-family housing . While KEPSC developed the adjoining parcel governed by the same special use permit, the Property was not developed. The two components covered by the SUP and amended SUP are collectively known as Corbinton Commons.

2. KEPSC proposed that the Property be developed with 67 townhomes in lieu of developing the multi-unit assisted housing with services or continuing care retirement community originally approved by the Town. The vested rights to develop the Property are disputed between the Parties.

3. On November 26, 2024, Plaintiff filed the Complaint in the above-captioned matter, alleging that the Town violated its constitutional rights and seeking a determination of its vested rights in this matter, among other claims. On January 31, 2025, Defendant filed a motion to dismiss alleging that Plaintiff lacked standing and that Plaintiff's claims were not yet ripe.

4. The Parties reached a resolution of all disputed issues between them in a mediated settlement conference that took place on October 21, 2025. The details of the resolution, which includes negotiated conditions for development approvals for the property, are reflected in the Settlement Agreement attached to this Consent Order as Exhibit A. The Settlement Agreement was approved and adopted by the Town of Hillsborough Board of Commissioners on _____, 2026.

5. The Parties wish for the Court to enter an Order directing that the Parties carry out the actions agreed to in the settlement agreement and staying this action to allow the necessary time for those acts to be carried out.

THEREFORE, it is hereby ORDERED, ADJUDGED, and DECREED:

1. Within 120 days of entry of this Consent Order, the Town of Hillsborough will carry out the procedures required by law for consideration and adoption of the Development Agreement attached to this Consent Order as Exhibit B (the “Development Agreement”) and the Consistency Statement and Rezoning Ordinance attached to this Consent Order as Exhibit C (the “Rezoning”).

2. No later than seventy (70) days from the date the Development Agreement and the Rezoning are adopted by the Town of Hillsborough Board of Commissioners, Plaintiff will cause a voluntary dismissal with prejudice to be filed in this action.

3. Each party will bear its own costs, including attorneys’ fees.

4. All proceedings in the above-captioned action are hereby STAYED 120 days from the date of this order.

Date: _____.

Superior Court Judge Presiding

WE CONSENT:

SMITH, ANDERSON, BLOUNT,
DORSETT, MITCHELL & JERNIGAN,
LLP

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