



Agenda Abstract

BOARD OF COMMISSIONERS

Meeting Date:	March 23, 2026
Department:	Legal
Agenda Section:	Regular
Public hearing:	No
Date of public hearing:	N/A

PRESENTER/INFORMATION CONTACT

Robert Hornik, Town Attorney
Katie Barber-Jones, Litigation Counsel

ITEM TO BE CONSIDERED

Subject: Settlement agreement for KEPSC Hillsborough LLC v. Town of Hillsborough

Attachments:

1. Proposed Settlement Agreement
2. Resolution approving the settlement agreement
3. Proposed legal consent order

Summary:

In November 2024 KEPSC Hillsborough LLC filed a lawsuit against the town arising from a dispute regarding the development of the remaining undeveloped portion of the Corbinton Commons project (the east side of the property). KEPSC also sought a determination by the Planning and Economic Development Manager, Shannan Campbell, regarding the density at which the property could be developed. The special use permit for the property allowed development of either a MAHS facility (Multi-unit Assisted Housing with Services) or a CCRC facility (Continuing Care Retirement Community) on the property. However, it was determined that such development would be unfeasible. Therefore, KEPSC had proposed (but never applied for) to develop the property as a townhouse development with approximately 67 residential dwelling units. Ultimately KEPSC filed its lawsuit seeking the right to develop the property as now proposed and seeking money damages and attorney's fees for alleged "taking" of its property rights by the town. The town has defended its actions in the lawsuit. KEPSC also appealed Campbell's determination regarding density to the Board of Adjustment.

All legal and appeal proceedings have been "on hold" as KEPSC and the town attempted to reach a resolution of the lawsuit. In October 2025 KEPSC and the town had a court-mandated mediation session, as a result of which a tentative settlement agreement was reached. The town board approved the general terms of the settlement at its November meeting. The parties have been in discussions since that time to formalize the settlement agreement, and the formal Settlement Agreement is before the board tonight. The terms are consistent with the terms reviewed and approved by the board in November. Boiled down to its simplest terms, the settlement provides for the town to approve the rezoning of the property to allow for the development of approximately 67 townhomes, with a development agreement providing specific terms, including the contribution by KEPSC of \$40,000 to the town's affordable housing fund. The settlement agreement would then be presented to the court for approval, after which the zoning action can be finalized. KEPSC has agreed to dismiss the lawsuit against the town after the rezoning is finalized.

Financial impacts:

Low; Contribution of \$40,000 to the town's affordable housing fund.

Staff recommendation and comments:

Town Staff recommends approval of the Settlement Agreement as presented.

Action requested:

Adopt a resolution approving the Settlement Agreement.