From:	Bill Mulholland
To:	Jessica Laroco
Subject:	FW: YOUR 2/21/24 LETTER TO THE EL ZEO RE APPICATION TO ELZC BY CLARKE FOR PROPERTY AT 91 BOSTON POST ROAD FW: Attached Scan
Date:	Monday, February 26, 2024 11:06:35 AM
Attachments:	3434_001.pdf

copy

From: Michael Carey <mcarey@sswbgg.com>
Sent: Friday, February 23, 2024 12:22 PM
To: Bill Mulholland <billm@eltownhall.com>
Subject: YOUR 2/21/24 LETTER TO THE EL ZEO RE APPICATION TO ELZC BY CLARKE FOR PROPERTY AT 91 BOSTON POST ROAD FW: Attached Scan

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Bill, I thought I should run this by you before I send it to PG. Thanks.

Paul,

On behalf of Mr. Mulholland and the ELZC, I write in response to your attached 2/21/24 letter. I will make only a couple of points, and reserve the right to address at a later time any aspects of your letter I do not touch on now.

- Your points 1(A) and (B). I do not agree that there is no authority under 8-30g or EL Zoning Regulations section 32.9 for the ZC to conduct a public hearing on the application. In addition, a zoning commission may schedule a public hearing on an application even when one is not required or mentioned by a statute or local regulation. Zizka, *What's Legally Required,* 8th Ed. (2023), p, 110, n. 92. I also reject your contention that the public hearing scheduled in this case must be postponed because the ELZC did not vote to conduct it, even if your contention that no vote occurred is correct, which I do not know. See Fuller, *9A Land Use Law and Practice*, (4th Ed.), sect. 18.1, n. 12 and n. 13. Moreover, in my experience it has not been uncommon for staff to schedule a hearing to commence on a matter the first meeting on which it appears on an agenda. Finally, I cannot understand your suggestion that the holding of a hearing would shift the burden of proof.

- You cite to both 8-30g and regulations section 32.9 in your letter. I think it would greatly benefit the ZC if you would declare under what authority the application was filed and what rights you claim the approval of a conceptual site plan would give your clients to develop the site, and whether they acknowledge that after an approval they will still need to obtain final site plan approval (and, if applicable, wetlands and other permits) before they could proceed with construction.