

From: O'Melia, Steven <[somelia@millerthomson.com](mailto:somelia@millerthomson.com)>  
Sent: December 16, 2024 4:43 PM  
To: Coreena Smith <[CJSmith@brucecounty.on.ca](mailto:CJSmith@brucecounty.on.ca)>; Sarah Bonderud <[sarah.bonderud@saugeenshores.ca](mailto:sarah.bonderud@saugeenshores.ca)>; Saugeen Shores Clerk <[clerk@saugeenshores.ca](mailto:clerk@saugeenshores.ca)>  
Cc: Dana Kieffer <[dkieffer@cobideeng.com](mailto:dkieffer@cobideeng.com)>; Shuh, Dawn <[dshuh@millerthomson.com](mailto:dshuh@millerthomson.com)>  
Subject: RE: Applications for Official Plan and Zoning By-law Amendment - 5331 Bruce Road 3, Town of Saugeen Shores - County File No.: C-2023-004 [MTDMS-Legal.FID12322707]

Some people who received this message don't often get email from [somelia@millerthomson.com](mailto:somelia@millerthomson.com). [Learn why this is important](#)

Hello Ms. Smith,

I am responding to Ms. Kieffer's email because you were copied on it. As a legal note, the concept of "without prejudice" communications doesn't apply in a planning approvals context when the municipal staff member is copied on correspondence – the process is required to be open and transparent to the public.

My reason for mentioning the representations made by Ms. Kieffer at the County meeting was to point out that they were given at that meeting but aren't reflected at all in the planning documents, and in particular the zoning by-law. The only reason one would make such representations would be to minimize the size of the operation in order to sway councillors who had concerns about it. It was effective, and got the desired result at the OP level.

However, unless those assurances are incorporated in the zoning by-law it is as though they don't exist. A future owner would not be bound by the representations, and the owner itself could simply change its mind immediately after getting an approval. The words in a by-law matter, and we zone for permitted use rather than relying on what someone says they will do.

As the by-law stands, there is nothing to distinguish it from the other concrete operations that Ms. Kieffer references. I am simply saying that you as the municipal planner should consider such restrictions since they formed part of the basis upon which the OPA was approved.

Simply put: if I say to a council, "you don't need to worry about the concerns raised by the nearby residents because of X and Y, which will help keep the operation smaller", then I should be prepared to have X and Y incorporated into the by-law. In this case, it would not be difficult.

To the Clerk, Ms. Bonderud, I ask that this clarification be communicated to Council by forwarding this email to Council prior to tonight's meeting. Thank you,

STEVEN O'MELIA

Partner

Leader, Municipal, Planning & Land Development

Certified Specialist (Municipal Law), LSO

Miller Thomson LLP

115 King Street South

Suite 300

Waterloo, Ontario | N2J 5A3

T +1 519.593.3289

+1 416.595.8500 (Toronto)

[somelia@millerthomson.com](mailto:somelia@millerthomson.com)

Providing services on behalf of a Professional Corporation

Connect with us on [LinkedIn](#)

View my [web page](#)



[Subscribe to our newsletters](#)

You can [subscribe](#) to Miller Thomson's free electronic communications, or [unsubscribe](#) at any time.

CONFIDENTIALITY: This e-mail message (including attachments, if any) is confidential and is intended only for the addressee. Any unauthorized use or disclosure is strictly prohibited.

Disclosure of this e-mail to anyone other than the intended addressee does not constitute waiver of privilege. If you have received this communication in error, please notify us immediately and delete this. Thank you for your cooperation. This message has not been encrypted. Special arrangements can be made for encryption upon request. If you no longer wish to receive e-mail messages from Miller Thomson, please contact the sender.

Visit our website at [www.millerthomson.com](http://www.millerthomson.com) for information about our firm and the services we provide.

Il est possible de [s'abonner](#) aux communications électroniques gratuites de Miller Thomson ou de s'en [désabonner](#) à tout moment.

CONFIDENTIALITÉ: Ce message courriel (y compris les pièces jointes, le cas échéant) est confidentiel et destiné uniquement à la personne ou à l'entité à qui il est adressé. Toute utilisation ou divulgation non permise est strictement interdite. L'obligation de confidentialité et de secret professionnel demeure malgré toute divulgation. Si vous avez reçu le présent courriel et ses annexes par erreur, veuillez nous en informer immédiatement et le détruire. Nous vous remercions de votre collaboration. Le présent message n'a pas été crypté. Le cryptage est possible sur demande spéciale. Communiquer avec l'expéditeur pour ne plus recevoir de courriels de la part de Miller Thomson.

Pour tout renseignement au sujet des services offerts par notre cabinet, visitez notre site Web à [www.millerthomson.com](http://www.millerthomson.com)