

**Communication : C 22  
Committee of the Whole (2)  
June 8, 2021  
Item # 8**

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**From:** john zipay <jjzipay@hotmail.com>

**Sent:** Sunday, June 06, 2021 5:34 PM

**To:** Clerks@vaughan.ca; Todd Coles <Todd.Coles@vaughan.ca>

**Cc:** Dino Giuliani <dino@approvedvaluations.com>; Jessica Damaren <jndamaren@westonconsulting.com>; Tony Carella <Tony.Carella@vaughan.ca>; Lucy Cardile <Lucy.Cardile@vaughan.ca>

**Subject:** [External] Fw: Kleinburg Inn. Proposed Comprehensive Zoning Bylaw

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I am submitting these documents on behalf of Mr. Dino Giuliani who requests to make a presentation to Committee of the Whole on Item Number 8 on the June 8/21, afternoon Agenda. Please forward speaking instructions directly to Mr. Giuliani. Also please forward the 2 letters contained in the first PDF, one from Mr. Giuliani and the other from John Zipay and Associates to Committee and City Council for their review and consideration.

Both Mr. Giuliani and I request to be advised of any recommendations or decisions made by Committee and or Council on this matter and of any future meetings regarding the passage of the proposed Comprehensive Zoning bylaw.

Please confirm receipt of this email.

Thank you,

John Zipay

June 4, 2021

City of Vaughan  
Clerks Department  
2141 Major Mackenzie Drive  
Vaughan, Ontario  
L6A 1T1

**Re: Proposed Zoning, under new draft By-Law  
9770 Highway #27, Vaughan, Kleinburg Inn**

Dear Mayor Bevilacqua and Members of Council,

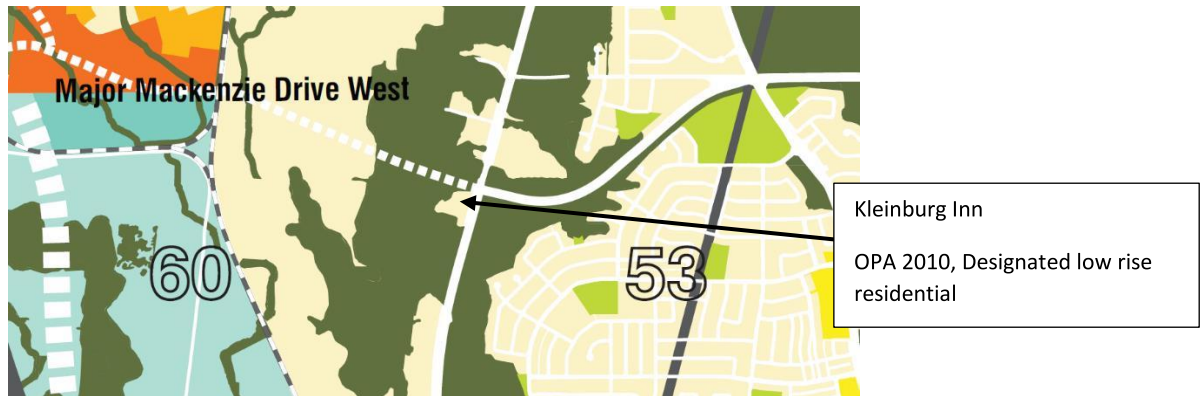
I am writing to you with respect to my concerns with the City Staff proposed By-Law for our property. To give you some background, we are the owners of the Kleinburg Inn, located at 9770 Highway #27. Our property is located at the south west corner of Major Mackenzie Drive and Highway #27. The Inn has been in existence since the early 1950's and we purchased the property in 1974 and have continued the existing accommodation use since.

As you know, the area has changed dramatically over the years, most recently, with the elimination of the Major Mackenzie jog and 6 lane bridge over the Humber River. Thus, making our property a corner site to what is now a major intersection.

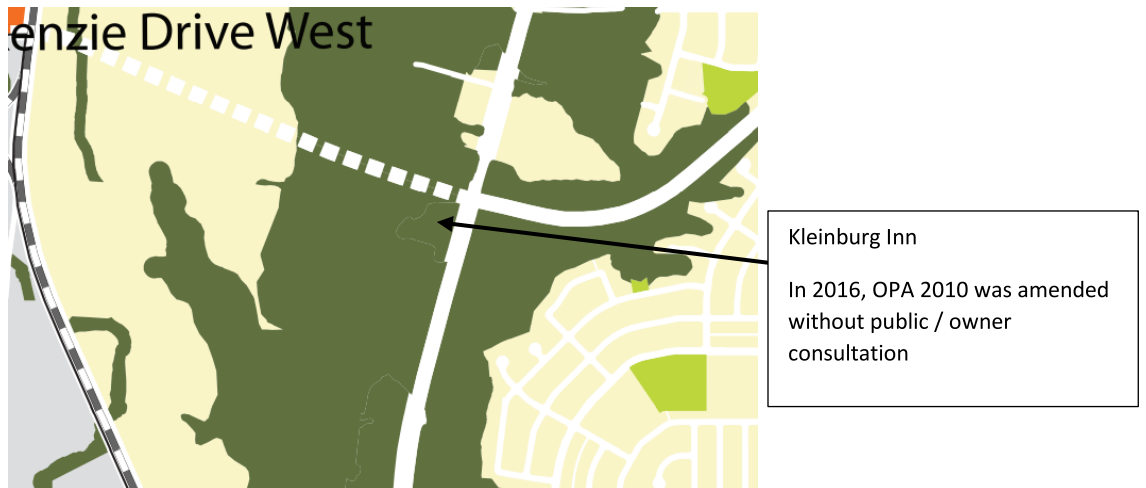
Our property has always operated as a commercial / accommodation use since it's original construction. As a result of Hurricane Hazel, our zoning was changed to OS1. Over the years, we have been permitted to expand our commercial use and have more than doubled in size and hotel rooms.



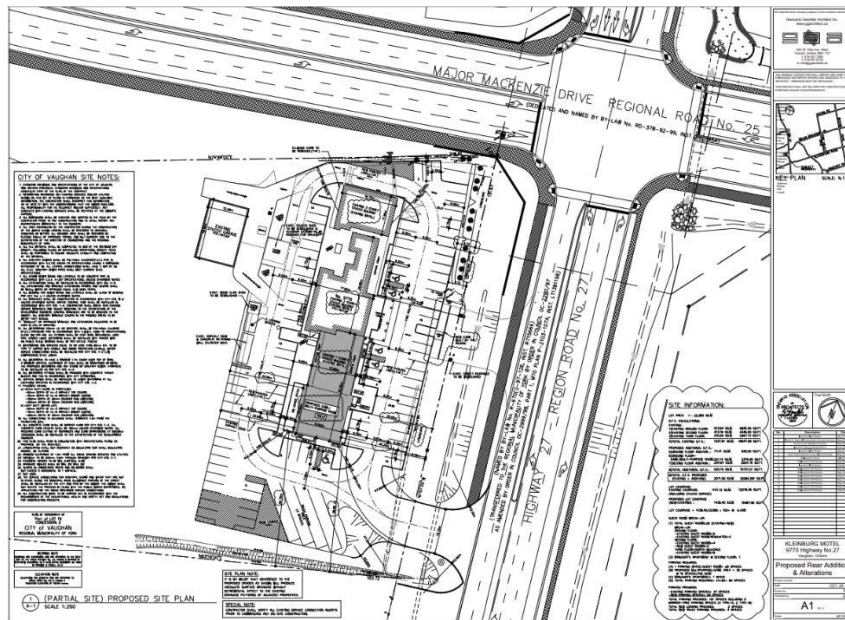
In 2010 the City of Vaughan approved OPA 2010 and our designation was change to Low Density Residential, see below.



In 2016, without any notification or public process, the mapping for OPA 2010 was changed to Natural Area.



In 2021, we were approved by the Committee of Adjustment under file #A062-20 to expand our current commercial use.



Although I am the owner of the Kleinburg Inn, my main profession is a designated real estate appraiser and I own / operate a firm here in Vaughan.

Over the last 30 years as a professional appraiser, a good percentage of our work is mortgage financing assignments for the main Banks and other smaller financial institutions. They rely upon our commercial / land / residential valuation reports for their underwriting / investment decisions.

Appraisers are governed by the Appraisal Institute of Canada and under the Institute Standards, are required in every appraisal assignment, to report on a subject property's Zoning, its use and if the use is in conformity to the Municipal Zoning By-Law.

It has been my professional experience, if a property is Zoned under Environmental Protection (EP), this leads the financial institution to believe that, despite Exceptions to the By-Law and in this case is (139, 175), the subject property's zoning is unclear. This creates a level of uncertainty and financial institutions typically do not entertain properties with zonings that are not clear, which often leads to (Red Flagging) and eventual turn down. The terminology should reflect the existing commercial uses and EP simultaneously. The proposed Zoning By-Law, will continue to be unclear and financial institutions will view the EP designation as only a negative.

Although it is unfortunate that a property's Municipal zoning crosses over to a financial institutions decision on whether to lend or not, but the reality is, it does. In fact, other than Zoning, no other municipal function, impacts the financial institutions decision making process.

Under the current City of Vaughan, By-Law review process, through my Planner Mr. John Zipay, I have attempted to work with Vaughan staff to bring our issue forward and have suggested perhaps a hybrid terminology to reflect a zoning designation which recognizes the current commercial uses and an EP designation, by suggesting that the current EP (139, 175) zoning and include in the brackets include the words (Existing Commercial), so that the designation will be as follows, EP-139, 175 (Existing Commercial). This would address my concerns, as it would more clearly reflect the current commercial and EP uses, which is only fair. I have attached Mr. Zipay's letter for your review.

Lastly, our proposed change on wording will not take away the integrity of what Vaughan Staff wishes to maintain on our property and immediate area. Unfortunately, Vaughan Staff does not agree with our proposal.

Therefore, we respectfully request that Vaughan Council not approve the proposed Zoning By-Law for our property and direct staff to work with us on a Hybrid version of the Zoning By-Law.

Sincerely,



Dino Giuliani  
416 779 5575

c.c. John Zipay  
Attachments, John Zipay and Associates letter dated May 5, 2021

John Zipay and Associates  
2407 Gilbert Court  
Burlington, On  
L7P 4G4  
[jzipay@hotmail.com](mailto:jzipay@hotmail.com)  
(416) 305-7989

May 5, 2021

Mr. Brandon Correia  
Planning Department  
2141 Major Mackenzie Drive  
Vaughan, ON  
L6A 1T1

Re: Kleinburg Inn  
9770 Hwy 7  
Proposed Zoning under new draft By-Law

Dear Mr. Correia:

I am writing to you as a follow-up to our April 30, 2021 meeting regarding a concern with the proposed zoning for the above noted property. Mr. Giuliani explained that he has a concern with the "EP" Environmental Protection zoning which is being proposed in the third draft of the proposed comprehensive zoning by-law. Given the land use history of the property, its long standing use as a motel or inn and location at a major intersection, it is our opinion that the proposed zoning does not properly reflect the true nature of the existing uses which in our view is a combination of environmental/open space and commercial use of the property. Consequently, it is our position that a different nomenclature should be used to identify a more appropriate zone designation or category. To this end, I will address land use and environmental protection in terms of zoning and the official plan designations and policies, and I will recommend a compromise solution which I believe could be supported and agreed to by everyone while maintaining conformity with the Official Plan. The comprehensive zoning by-law review is an exercise in implementing zoning which is in conformity with VOP 2010. With respect to the subject property, I believe this can be achieved to the satisfaction of Mr. Giuliani and the City.

Land Use and Zoning Background

The Kleinburg Inn property is a legal conforming use as supported by exceptions to By-Law 1-88, which have been carried forward to the Third draft of the proposed new zoning by-law.



- 1) By-Law 1-88 zones the property "OS-1" with exceptions, while the draft zoning by-law, zones the property 'EP-139, 175'. The exceptions (139, 175) have been carried over from By-Law 1-88. These exceptions stipulate the following:

Exception 139

"1. If buildings are damaged to the extent of 50% or more of their value, they may be restored or replaced provided that:

- a) The restored or replacement building shall be erected in the same location as the existing building and the "Replacement", and,
- b) No building permit shall be issued until a site plan has been approved by the Toronto and Region Conservation Authority and the City of Vaughan.

"2. The existing building shown as a "Motel" on Figure E-277 may be enlarged by the construction of an addition shown as a "Restaurant" on figure E-277."

Further there is a clause which stipulates that the gross floor area of the restored building or replacement building shall not exceed the GFA of the existing building and restaurant.

Exception 175

Exception 175 provides for the following:

"1. If the "Existing or Proposed Building shown on Figure E-377 are damaged then they may be restored and replaced provided that,

- a. The restored or replacement building shall be erected in the same location as the existing building and the additions;
  - b. The restored building and replacement building shall not exceed the height or size of the existing building plus the additions; and
  - c. The floor area of this portion of the restored building or replacement building which may be used for a restaurant or apartment shall not exceed the floor area of that part of the building being used for such purposes immediately prior to the restaurant or replacement.
2. The existing building shown as a "Motel" on Figure E-337 hereto may be enlarged by the construction of the additions shown as "Restaurant" and "Apartments Second Floor" and the additions may be used for a restaurant and apartment respectively."

Official Plan 2010

Official Plan 2010 designates the property as Open Space and under Schedule 2, Natural Heritage Network it is designated as "Built-Up-Valley Lands". The property "is not" designated as either an "Environmentally Sensitive Area" or as an "Area of Natural and Scientific Interest".

Having been designated as "Built-Up Valley Lands", there are specific policies within VOP2010 which address recognition for existing uses and development of these valley lands.

Policy 3.2.3.1

To protect and enhance the Natural Heritage Network as an interconnected system of natural features and the functions they perform, as identified on Schedule 2, by:

- ii) Built-Up Valley Lands recognize existing developed lands located below the physical top of bank, such that minor alterations and/or limited new development may be permitted with restrictions.

Policy 3.2.16

That Built-Up Valley Lands, as identified on Schedule 2, recognize existing developed lands located below the physical top of bank and within the area regulated in accordance with the Conservation Authorities Act. As per policy 3.2.3.2 and policy 10.2.1.4 minor alterations or additions to such lawfully existing developments may be permitted subject to the policies of the Plan and which may include consultation with the Toronto and Region Conservation Authority, York Region, or Province as required.

Policy 3.2.3.17

That new development and or site alteration are prohibited except ..... in accordance with an approved permit under the Conservation Authority Act. Permits may be used within a regulated area provided it is demonstrated that development and/or site alteration will not create unacceptable risks to public health or safety or property damage; or affect the control of flooding, erosion, pollution or the conservation of land. The proposed development and/or site alteration must minimize impacts on natural heritage features and identify enhancement and/or restoration opportunities.

Policy 10.2.1.4

To recognize legally existing land uses as they exist at the time the Plan is approved. The land use shall be deemed to conform to this Plan. Minor extensions, reductions or expansions of such uses shall be permitted without



amendment to this Plan provided that the intent of this Plan is not compromised and the tests below are met:

- a) the road pattern and transit routes envisioned by this Plan are not compromised or precluded in the long term;
- b) the proposed enlargement of the existing use shall not unduly aggravate the situation created by the existence of the use, especially in regard to the requirements of the zoning by-law.
- c) the characteristics of the existing use and the extension and enlargement shall be examined with regard to noise, vibration, fumes, smoke, dust, odor, lighting, parking and traffic generation.
- d) not applicable.
- e) not applicable.
- f) within Natural Areas, it is demonstrated that there will be no negative impact on existing natural features and functions;
- g) there is no increased risk to public health and safety associated with natural hazards in accordance with the natural hazards policies of this Plan; and/or
- h) where applicable, permission is obtained in accordance with Section 28 of the Conservation Authorities Act.

#### Observation and Analysis

1. The EP zoning nomenclature does not represent a complete characterization of the existing land use lawfully permitted on the property.
2. The current zoning by-law and proposed new comprehensive zoning by-law both confirm that the existing uses are legal and conforming and comply with the VOP2010.
3. The existing uses have been established on the property as a commercial use for decades and the City and Conservation Authority have approved expansion plans in the past which were in compliance with Official Plan Policies and TRCA policies and regulations.
4. There is an established operating business which is a commercial venture, which is in compliance with the zoning by-law and the Official Plan. There is a significant monetary investment in the existing commercial facility which will continue into the foreseeable future. Changes and expansions are permitted in accordance with the policies of VOP2010 without the requirement of an Official Plan Amendment according to Policy 10.1.2.4.
5. The owner of the property is requesting a zoning category or nomenclature which reflects the actual commercial uses and permissions governed by the Official Plan policies. Conversely, Planning Staff want nomenclature which reflects the underlying environmental aspects of the lands being located in the Built-Up Valley Lands.

6. The owners of the property are of the opinion that the "EP" zoning undermines the value of their business asset and property as from their experience, such a zoning designation causes difficulty with financial institutions as the EP zoning lacks a full clarity of the permitted uses. Therefore, the owners desire a commercial zoning to reflect the commercial uses of the property. Conversely, the Planning staff are reluctant to assign a commercial zoning as they are of the opinion that such a zoning would not be in conformity with the VOP2010 and would not reflect the environmental aspects of the Official Plan.

#### Conclusion

I concur with the Planning Department that a pure Commercial Zoning designation may be contrary to the Official Plan. However, I also am of the opinion that the EP zoning, notwithstanding the exceptions, does not provide a clear or complete picture as to what the land use permissions are for the property.

The subject lands are not given a purely 'Natural Area' designation under VOP2010 but instead are designated "Built-Up Valley Lands", which as I have demonstrated, under the VO2010 policies are treated in a different manor in that while they are located in a natural valley area, they are entitled to the continuance of the existing commercial uses and the expansion of these uses both in respect of Official Plan policies and Zoning regulations.

#### Solution

In my opinion, the solution rests in a compromise which incorporates the dual intent of both the VOP2010 policies and the Zoning By-Law regarding Built-Up Valley Lands. Rather than simply zoning the property "EP-139, 175" the addition of the further descriptivism could bridge the two opposing positions and thereby provide a mutually acceptable outcome. I am asking you to consider a modification to the zoning nomenclature. Instead of zoning the property "EP-139, 175, use the following nomenclature, "EP-139-175 (Existing Commercial), which would recognize both the natural heritage designation of the Official Plan and concurrently recognize the commercial aspect of the actual uses as permitted by the policies for lands located within the Built-Up Valley Lands designation. The proposed modification simply and more actually reflects actual use of the property and is in conformity with the Official Plan 2010.

Thank you for your consideration and I look forward to your reply before the draft by-law is presented to Committee of Whole or City Council.

Sincerely

A handwritten signature in black ink, appearing to read 'John Zipay', with a long horizontal flourish extending to the right.

John Zipay MSc. U.R.P., RPP

cc: Mr. Dino Giuliani  
Councillor, Tony Carella  
Sandra Patano, Weston Consulting