

**Subject: Appeal to 933 Gladstone / 1030 Somerset Rezoning Proposed
Resolution – Class 4 Designation**

File Number: ACS2022-PIE-EDP-0031

Report to Planning Committee on 22 September 2022

and Council 5 October 2022

**Submitted on September 20, 2022 by David Wise, Acting Director, Economic
Development and Long Range Planning, Planning, Real Estate and Economic
Development Department**

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Ward : Somerset (14)

**Objet : Appel – résolution liée à la modification de zonage proposée – 933,
Gladstone / 1030, Somerset – désignation en tant que catégorie 4**

Dossier : ACS2022-PIE-EDP-0031

Rapport au Comité de l'urbanisme

le 22 septembre 2022

et au Conseil le 5 octobre 2022

**Soumis le 20 septembre 2022 par David Wise, Directeur par intérim,
Développement économique et Planification à long terme, Direction générale de
la planification, de l'immobilier et du développement économique**

**Personne ressource : Jean-Charles Renaud, Urbaniste II, Examen des demandes
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Quartier : Somerset (14)

REPORT RECOMMENDATIONS

That Planning Committee recommend to Council that:

1. **933 Gladstone Avenue and 1030 Somerset Street, shown on the Location Plan attached as Document 1 to this report. be designated as a Class 4 area within the meaning of Provincial Guideline NPC-300 and the City's Environmental Noise Control Guidelines, and that the property be listed as a Class 4 area within Appendix A to the City's Environmental Noise Control Guidelines.**
2. **The Noise By-law being By-law 2017-155, as amended, be further amended by the addition of the site specific provision set forth in Document 2.**

RECOMMANDATIONS DU RAPPORT

Que le Comité de l'urbanisme recommande au Conseil :

1. **De désigner les biens-fonds situés au 933, avenue Gladstone et au 1030, rue Somerset, illustrés sur le plan de localisation joint au présent rapport comme document 1, en tant que secteur de catégorie 4 selon la signification établie dans les lignes directrices provinciales NPC-300 et les Lignes directrices sur la lutte contre le bruit environnemental de la Ville, et d'ajouter aux biens-fonds la désignation de secteur de catégorie 4 dans l'annexe A des Lignes directrices sur la lutte contre le bruit environnemental de la Ville;**
2. **De modifier une fois de plus le Règlement sur le bruit, Règlement 2017-155, tel que modifié, en y ajoutant une disposition propre à un site, telle que présentée dans le document 2.**

BACKGROUND

On March 10, 2021, City Council adopted a secondary official plan amendment and a zoning by-law amendment in respect of the Corsa Italia Station District. The secondary official plan amendment designed the area, which is generally bounded by Somerset Street to the north, Highway 417 to the south, Breezehill Avenue and Loretta Avenue (south of Gladstone Avenue) to the west, and Preston Street (including properties facing Preston Street on its east side) and Booth Street (south of Balsam Street) to the east, as Protected Major Transit Station Area in accordance with the provisions of the *Planning Act*.

An accompanying Zoning By-law to the Official Plan Amendment rezoned 933 Gladstone Avenue and part of 1030 Somerset Street from a Mixed Use Centre zone to a combination of a Mixed Use Centre 17 exception subzone and a R4T exception subzone.

Located in the area at 975 Gladstone Avenue is an industrial facility operated by the Canadian Bank Note Company. At the time of the consideration of the report, a direction was given which became Policy 4.1.4.6 in the secondary plan:

4.1.4.6. New residential development that is built close to established industrial operations are responsible for mitigating their proximity in a manner that has no effect or impact on the established operation's ability to continue operating, and any studies or mitigation measures shall be done at their own cost

This Zoning By-law amendment was appealed to now the Ontario Land Tribunal by Canadian Bank Note Company. A motion to dismiss the appeal was brought by the City given the limited rights of appeal to a Zoning By-law as the land is a Protected Major Transit Station Area.

In the course of discussions during the exchange of documentation and cross-examination of witnesses for the motion, the possibility of a settlement of this matter appeared on the basis of the designation of the 933/1030 Somerset Street Site as a Class 4 site within the meaning of the Environmental Noise Guideline - Stationary and Transportation Sources - Approval and Planning (NPC-300) and the City of Ottawa Environment Noise Control Guidelines. .

DISCUSSION

Class 1 V. Class 4 Analysis

A Class 4 area is defined by NPC-300 as the following:

"Class 4 area"

means an area or specific site that would otherwise be defined as Class 1 or 2 and which:

- is an area intended for development with new noise sensitive land use(s) that are not yet built;
- is in proximity to existing, lawfully established stationary source(s); and

- has formal confirmation from the land use planning authority with the Class 4 area classification which is determined during the land use planning process.

(Class 1 areas are typical areas in a major population centre, Class 2 is a blend of Class 1 and surroundings that would be found in a more rural area)

A Class 4 designation cannot be put in place for an area with an existing noise sensitive land use.

NPC-300 requires that a Class 4 designation can only be put in place by a planning authority. The City's Environmental Noise Control Guidelines state:

Class 4 is considered to be an extraordinary circumstance that, while proposed by an applicant, can only be classified through a City or Ontario Municipal Board [now the Ontario Land Tribunal] approval of a Planning Act application and accompanying noise study

The difference in permissible Sound Level Limits between Class 1 and Class 4 is shown in the following table:

| Assessment Location | Time Period | Class 1 Exclusion Limited (1hr Leq) | Class 4 Exclusion Limit (1hr Leq) |
|--|---------------|-------------------------------------|-----------------------------------|
| Outdoor Point of Reception | 7 am to 7 pm | 50 dBA | 55 dBA |
| | 7 pm to 11 pm | 50 dBA | 55 dBA |
| | 11 pm to 7 am | (n/a) | (n/a) |
| Plane of Window of noise sensitive space | 7 am to 7 pm | 50 dBA | 60 dBA |
| | 7 pm to 11 pm | 50 dBA | 60 dBA |
| | 11 pm to 7 am | 45 dBA | 55 dBA |

Noise impact assessments were performed by consultants retained by each of Canadian Bank Note Company (Integral dx Engineering) and by Ottawa Community Housing, the owner of 933 Gladstone Avenue/1030 Somerset Street (GradientWind Engineers & Scientists). Both consulting firms concluded that while there would not be compliance if the 933 Gladstone Avenue/1030 Somerset Street site were considered as Class 1, there would be compliance if it were designated as Class 4.

Effects of Class 4 Designation

If the 933 Gladstone Avenue /1030 Somerset Street property is designated at a Class 4 site, two effects have been identified as resulting from such designation.

The first is that all buildings on the site would need to be equipped with central air conditioning or similar mechanical system. A Class 4 designation is premised on windows being closed and then it is required that an alternative means be available to provide for an indoor living environment.

Secondly, a warning clause would be required in leases (or were it applicable, agreements of purchase and sale) that would be consistent with the NPC-300 guidelines. Such warning clause would also be registered on title as part of a subdivision or site plan agreement.

Ottawa Community Housing has indicated to the City that it is prepared to comply with these two requirements.

By-law 2017-255, Noise By-law

The City's Noise By-law, By-law 2017-255 is based upon the noise levels permitted in Class 1 areas. As such, there is no recognition of a Class 4 designation or relief under the By-law to a stationary noise source in the vicinity of a property with a Class 4 designation. This may be due to the fact that at present no lands in the City of Ottawa that have been designated as Class 4.

It is not recommended at this time to enact a general provision granting relief from the By-law to any stationary noise source in the vicinity of a property with a Class 4 designation. Nonetheless, if a settlement is to be affected in this case, it is necessary to provide for specific relief. Thus, it is the proposal of staff that Council enact a site specific amendment to By-law 2017-255, attached as Document 2, that would provide protection from the by-law to 975 Gladstone Avenue in respect of stationary noise sources at that site provided the noise levels do not exceed that permitted by the Class 4 designation of 933 Gladstone Avenue/1030 Somerset Street.

RURAL IMPLICATIONS

There are no rural implications to this report.

CONSULTATION

Throughout the period that the Zoning By-law has been under appeal discussions have continued between the representatives for the City, Canadian Bank Note Company and Ottawa Community Housing. These discussions have led to the presentation of this proposed approach for the settlement of the proceeding.

COMMENTS BY THE WARD COUNCILLOR(S)

Councillor Leiper and Councillor McKenney are aware of the report

LEGAL IMPLICATIONS

The designation of 933 Gladstone Avenue and 1030 Somerset Street as Class 4 within the meaning of the NPC-300 Guidelines and the City's Environmental Noise Control Guidelines would lead to a resolution of the outstanding zoning appeal in this matter.

In the event the lands are not so designated, staff will continue to defend the City's Zoning By-law before the Tribunal.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications associated with the recommendations of this report.

FINANCIAL IMPLICATIONS

There are no direct financial implications.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

ECONOMIC IMPLICATIONS

There are no environmental implications associated with this report.

TERM OF COUNCIL PRIORITIES

The Term of Council Priorities identified in the report recommending the adoption of the Official Plan Amendment and Zoning By-law Amendment including this property were:

This project addresses the following Term of Council Priorities:

- Economic Growth and Diversification;
- Integrated Transportation;
- Thriving Communities;
- Environmental Stewardship;
- Sustainable Infrastructure

SUPPORTING DOCUMENTATION

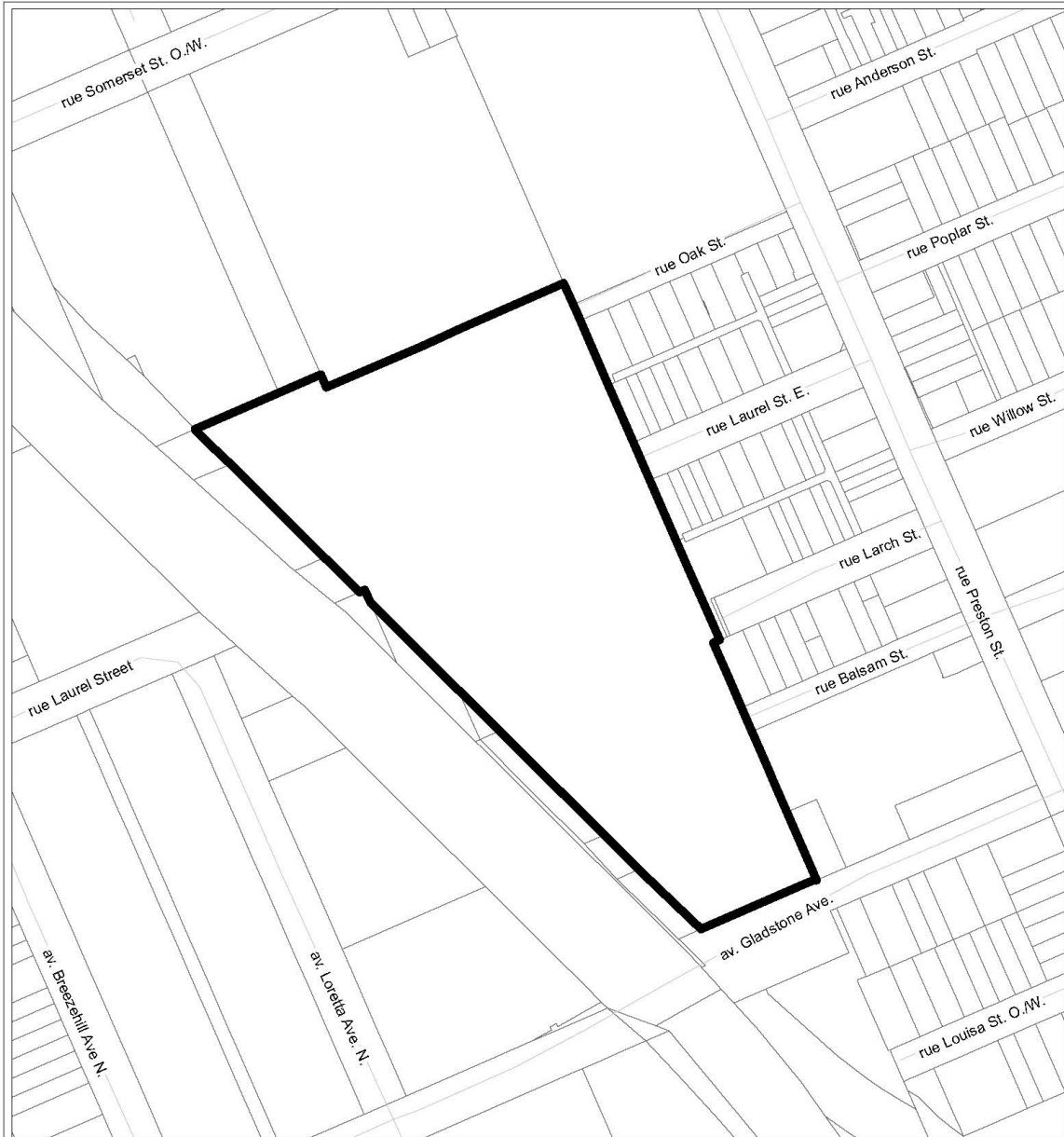
Document 1 Map of area to be subject to Class 4 designation



Document 2 Amendment to Noise By-law.

DISPOSITION

The Office of the City Solicitor will advise the other parties should this report and amendment to the Noise By-law be adopted by Council. Minutes of settlement consistent with this report will be executed by the parties.

Document 1 – Area Subject to Class 4 Designation



| | | |
|--|-----------|---|
|  | | <p>Document 1</p> <p>Area Subject To Class 4 Designation</p> |
| D02-02-20-0067 | 22-0914-D | |
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| REVISION / RÉVISION - 2022 / 09 / 21 | |  |

Document 2 – Amendment to Noise By-law

There is no violation of this by-law where the noise levels at the properties municipally known as 933 Gladstone and 1030 Somerset as at October 5, 2022, and successor addresses, resulting from stationary noise sources at the property bounded by Gladstone Avenue, Breezehill Avenue, Laurel Avenue and Loretta Avenue, municipally known as 975 Gladstone as at October 5, 2022, do not exceed the noise levels permitted by the Class 4 designation of 933 Gladstone/1030 Somerset, which noise levels set forth in Schedule “C”

Schedule “C”

| Assessment Location | Time Period | Class 4 Exclusion Limit (1hr Leq) |
|--|---------------|-----------------------------------|
| Outdoor Point of Reception | 7 am to 7 pm | 55 dBA |
| | 7 pm to 11 pm | 55 dBA |
| | 11 pm to 7 am | (n/a) |
| Plane of Window of noise sensitive space | 7 am to 7 pm | 60 dBA |
| | 7 pm to 11 pm | 60 dBA |
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