Minute No. 740
Report - Standing Policy Committee on Property and Development - October 4, 2005

Item No. 11 Rezoning - 45 Lydia Street
File DAZ 239/2005

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 239/2005 dated August 31, 2005, to a "C1.5" Commercial District, subject to the following:

    A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter Act, to provide for the following:

        i. That the height of all buildings not exceed two (2) storeys and thirty (30) feet.

        ii.. That there shall be no free standing identification or advertising signs including mobile sign, poster signs, and A-frames permitted on the Lydia Avenue frontage and there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with an official opening event.

        iii. That no internally illuminated signage be erected on the property.

        iv. That final plans showing the location and details of building elevations, parking areas, landscaping, fencing, lighting, and garbage enclosures, shall be submitted to the Director of Planning, Property and Development for approval prior to the issuing of any development or building permits and thereafter maintained to the satisfaction of the Director of Planning, Property and Development.

2. That a ten per cent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in the market value of the land.

Report - Standing Policy Committee on Property and Development - October 4, 2005

COUNCIL DECISION (continued)

3. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

4. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

7. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Report - Standing Policy Committee on Property and Development - October 4, 2005

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 19, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee, as amended, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On October 4, 2005, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee with the following amendment, namely:

- That Recommendation 1.A.i.be amended by deleting the words "be limited to" and substituting therefore the words "not exceed"

and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 2005, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation with the following amendment, namely:

- That a new recommendation 1.A. be inserted as follows:

  "1. A. That, the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter Act, to provide for the following:"

and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 45 Lydia Street**
File DAZ 239/2005 [c/r DAV 145426/2005D and DCU 145864/2005D]

For submission to: **The Standing Policy Committee on Property and Development**

Prepared by: **Diane Timmins, Clerk,**
Lord Selkirk-West Kildonan Community Committee

Report date: **September 15, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 2005, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 239/2005 dated August 31, 2005, to a "C1.5" Commercial District, subject to the following:

    A. ***That, the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter Act, to provide for the following:***

        i. That the height of all buildings be limited to two (2) storeys and thirty (30) feet.

        ii. That there shall be no free standing identification or advertising signs including mobile sign, poster signs, and A-frames permitted on the Lydia Avenue frontage, and there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with an official opening event.

        iii. That no internally illuminated signage be erected on the property.

        iv. That final plans showing the location and details of building elevations, parking areas, landscaping, fencing, lighting, and garbage enclosures, shall be submitted to the Director of Planning, Property and Development for approval prior to the issuing of any development or building permits; thereafter maintained to the satisfaction of the Director of Planning, Property and Development.

2. That a ten per cent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in the market value of the land.

3. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

4. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

7. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

The Lord Selkirk-West Kildonan Community Committee provided the following supporting reason for its recommendation:

1. The Lord Selkirk-West Kildonan Community Committee agreed with the administrative comments contained in the report from the Manager of Planning and Land Use dated August 31, 2005.

PUBLIC HEARING SUMMARY

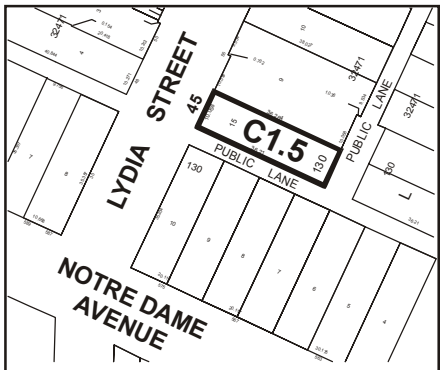
File: DAZ 239/2005
[c/r DAV 145426/2005D and DCU 145864/2005D]

Before: Lord Selkirk-West Kildonan Community Committee
Councillor Pagtakhan, Chairperson
Councillor Lazarenko
Councillor O'Shaughnessy

Public Hearing: September 13, 2005
West Committee Room, Council Building
510 Main Street

Applicant: Frank Scheffer Enterprises Ltd.
(Dieter Scheffer)

Subject:



Premises Affected: 45 Lydia Street

Exhibits Filed:
1. Application dated August 17, 2005
2. Notification of Public Hearing dated August 18, 2005
3. Manitoba Status of Title 1957083

4. Surveyor's Building Location Certificate and sketch dated July 21, 1972
5. Sketch of subject property
6. Report from the Manager of Planning and Land Use dated August 31, 2005
7. Inspection Report

REPRESENTATIONS:

In Support:

Dieter Scheffer

In Opposition

Nil

For Information:

Nil

For the City:

Michael Robinson, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS MADE AT THE PUBLIC HEARING

Dieter Scheffer appeared in support of the application and stated concurrence in the recommendations outlined in the report of the Manager of Planning and Land Use.

Exhibit "6" referred to in File DAZ 239/2005 [c/r DAV 145426/2005D and DCU 145864/2005D]

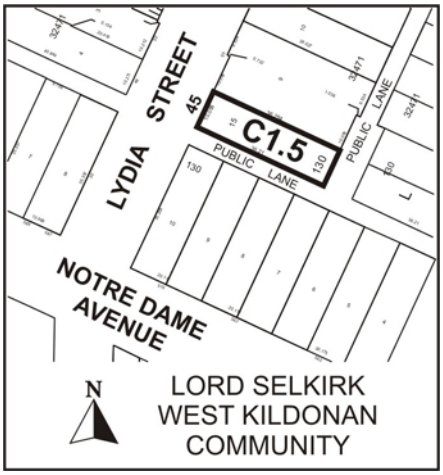
Winnipeg

Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

Date: **August 31, 2005**
File: **DAZ 239/2005**
Related Files: **DCU 05-145864/D, DAV 05-145426/D**
Subject: **An application to rezone land from an "RM-L" Multiple-Family District to a "C1.5" Commercial District to permit the establishment of a commercial retail building.**

Location: **45 Lydia Avenue**



Applicant: **Frank Scheffer Enterprises Ltd.**
Owner: **Same**

Recommendation: Approval with Conditions

Report Summary:

- Proposal to rezone a site with an existing residence from an "RM-L" Multiple Family Residential District to a "C1.5" Commercial District to allow for an automobile parts sales use.
- Proposal meets Plan Winnipeg policies which allow for a variety of uses in the Neighbourhood Policy Area
- The proposed use will not create an adverse effect on the amenities, use, safety and convenience of the adjoining properties and adjacent area;
- Neighbourhood commercial is the highest and best use for this property

Site Description

The subject property, which measures 3,920 square feet, is currently occupied by a 2 1/2-story residence, which is used as a rooming house. It is zoned "RM-L" Multiple Family Residential District.

Surrounding Land Use

North: Immediately to the north is a commercial building zoned "RM-L" Multiple Family Residential. Further to the north is a multi-story residential building zoned "RM-L" Multiple Family Residential

South: Commercial uses fronting Notre Dame Avenue zoned "C2" Commercial

East: Residences zoned "RM-L" Multiple Family Residential

West: Residences zoned "RM-L" Multiple Family Residential

Description of the Proposed Development

The applicant is proposing to rezone the subject property to "C1.5" in order to expand his existing business by developing a commercial building on the subject land. The site is currently occupied by a rooming house, which has been owned and operated by the applicant for several years. The rooming house would be demolished in conjunction with this application.

A variance for a substandard front yard setback of 0 feet instead of 25 feet, a substandard north side yard setback of 0 feet instead of 10 feet, and a parking variance as well as a conditional use to permit an automobile parts sales use (DCU 05-145864/D) are also being considered in association with this application.

Analysis

Plan Winnipeg Compliance

The subject parcel falls within a designated Neighbourhood Policy Area under Plan Winnipeg, which allows for a variety of residential, commercial, institutional, and mixed uses; thus, the proposed rezoning is in conformance with Plan Winnipeg 2020.

Compatibility with existing neighbourhood and surrounding uses
Development patterns have changed the character of the east side of the block from predominantly residential to mixed use, with a variety of different buildings and uses on the street, including a commercial/warehouse building, a surface parking lot, and a multiple story residential tower at the corner. At this time, because of development patterns that have occurred on the block and because of the location of the subject parcel, squeezed between two commercial buildings, it appears that the highest and best use for the subject property has shifted from residential to neighbourhood commercial.

However, it is important to recognize the block is transitional and still includes a substantial number of residences. In light of this, conditions are being recommended which will limit the impact of a commercial use on adjacent properties.

Displacement of residents
Unfortunately, residents will be displaced as a result of the proposed development, which will result in the demolition of the rooming house. The applicant is required to provide adequate notice to the residents, under Manitoba law.

Site Design Issues
Building
At this time, elevations of the building have not been provided. In the opinion of the Planning and Land Use Division, given the mixed commercial/residential nature of the block, it is important that the building design be compatible with the surrounding community and compliment, rather than detract from the street. The building should, at a minimum, incorporate windows and other façade treatment(s) in order to create visual interest on the street and to avoid a bunker like appearance, such as the adjacent building to the north.

Similarly, while the C1.5 District has a maximum height allowance of 45 feet, the street, with a few exceptions, is characterized by low commercial buildings and two and two ½ story residences with heights ranging from 25-35 feet. Therefore, it is recommended that in order to respect the context of the area, the maximum allowable building height be limited to 2 stories and 30 feet.

Fencing
The parking area in the rear, which will accommodate six cars, abuts the rear lane and is adjacent to residences across the lane. Thus, given the adjacent context, it is recommended that a six foot residentially styled wooden fence be provided to screen the parking area from the residences

Signage
Similarly, given the mixed-use nature of the block, it is recommended that conditions be included to control signage by limiting glare and the visual impact on the street.

Lighting
It is important that any lighting which is provided is low and full cut off, to reduce glare.

Recommendation

The Planning and Land Use Division recommends approval for the following reasons:

- Proposal meets Plan Winnipeg policies which allow for a variety of uses in the Neighbourhood Policy Area
- The proposed use will not create an adverse effect on the amenities, use, safety and convenience of the adjoining properties and adjacent area;
- Neighbourhood commercial is the highest and best use for this property.

Recommended Conditions of Approval

I. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 239/2005, attached hereto and dated, August 31 2005, to a "C1.5" Commercial District, subject to the following:

1. That the height of all buildings be limited to 2 storeys and 30 feet
2. That, there shall be no free standing identification or advertising signs including mobile sign, poster signs, and A-frames permitted on the **Lydia Avenue** frontage, and there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with an official opening event.
3. That no internally illuminated signage be erected on the property.
4. That final plans showing the location and details of **building elevations**, **parking areas**, **landscaping, fencing, lighting, and garbage enclosures,** shall be submitted to the Director of Planning, Property and Development for approval prior to the issuing of any development or building permits; thereafter maintained to the satisfaction of the Director of Planning, Property and Development.

II. That a ten (10) per cent dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in the market value of the land.

III. That, in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

IV. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

V. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

VI. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

VII. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by: Michael Robinson, AICP
PPD File # 3.311

Schedule "A"

By-Law No. _____

File No. **DAZ 239/05**

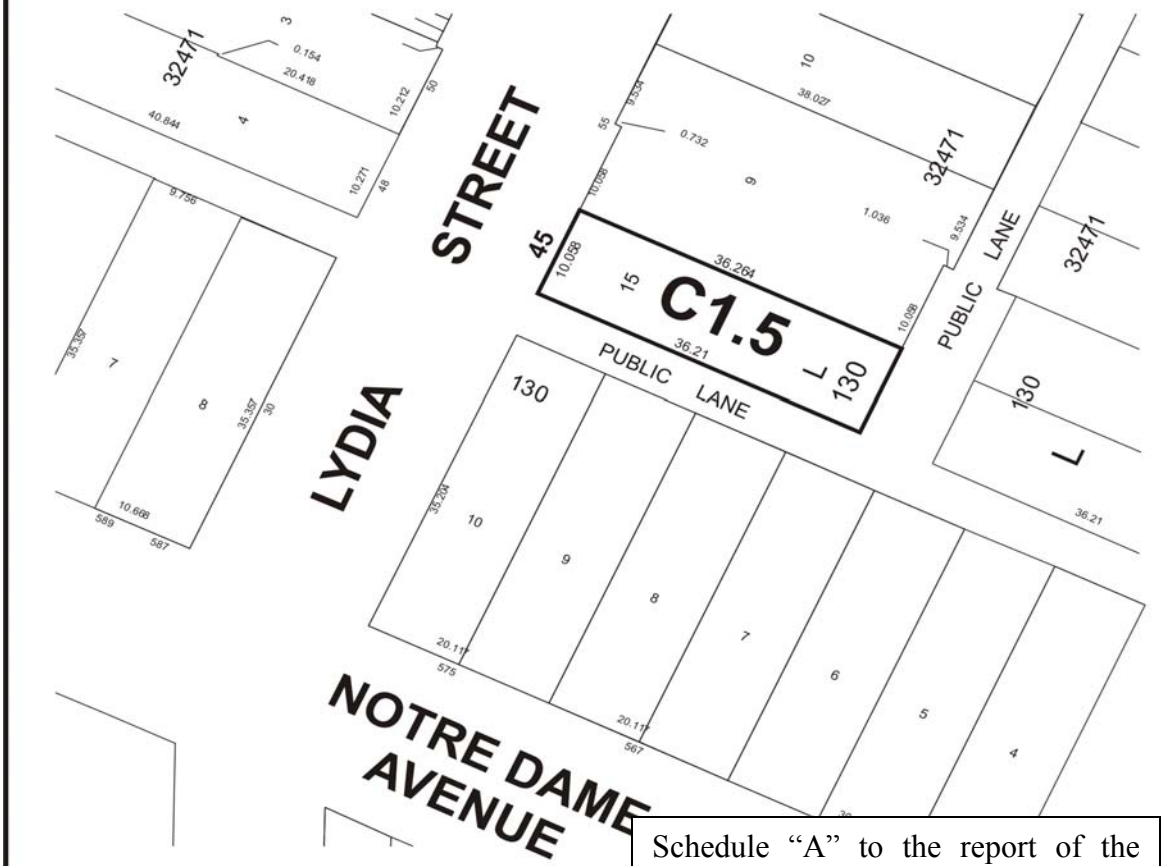
Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 45 Lydia Street from an "RM-L" MULTIPLE-FAMILY DISTRICT to a "C1.5" COMMERCIAL DISTRICT as shown outlined below.

Atlas Sheet No. **Y23**

N

LORD SELKIRK WEST KILDONAN COMMUNITY



Schedule "A" to the report of the Lord Selkirk/West Kildonan Community Committee for File No. DAZ 239/05, dated August 31, 2005.

THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

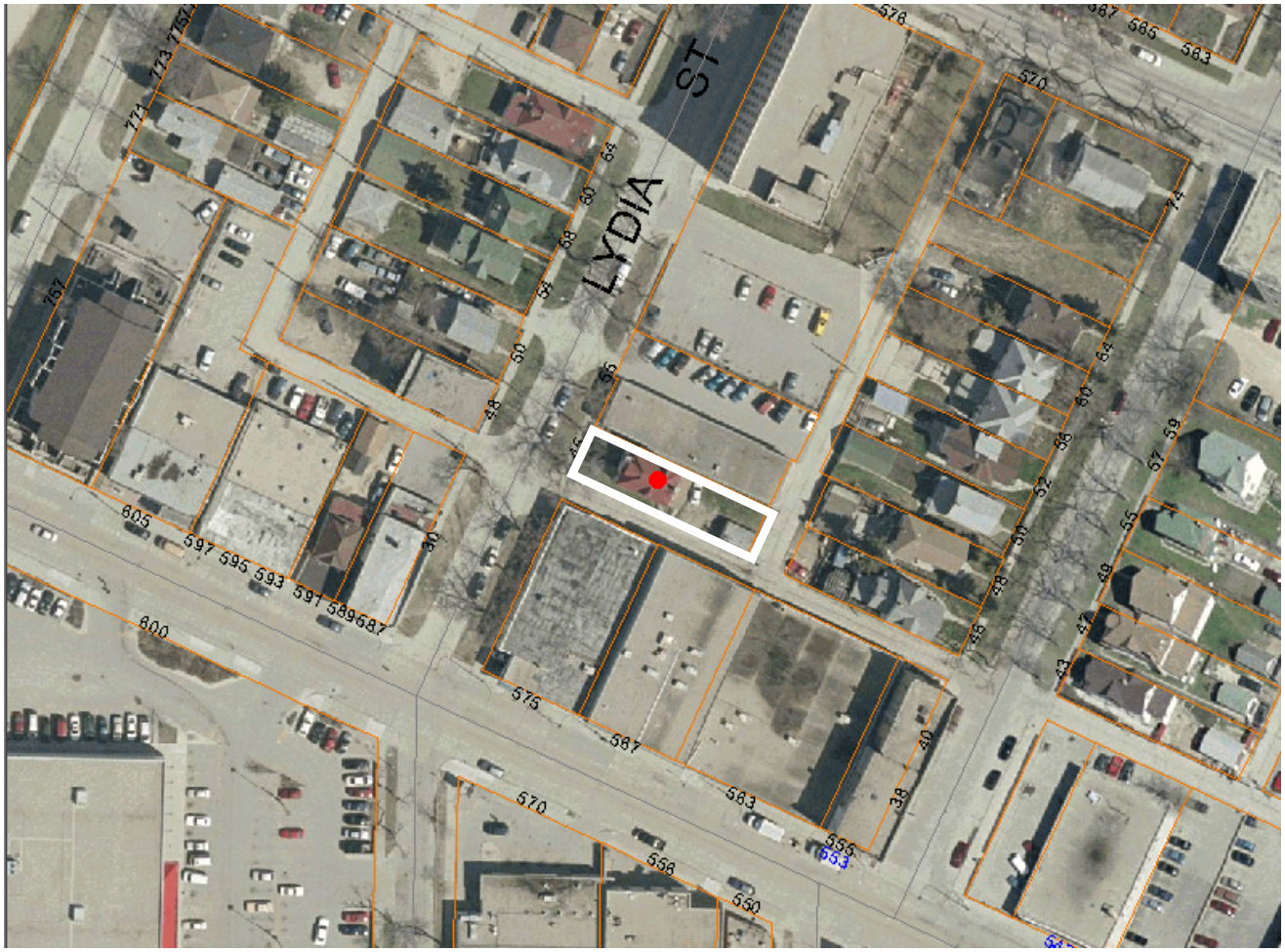


Figure 1: Aerial Photo (Flown in 2002)

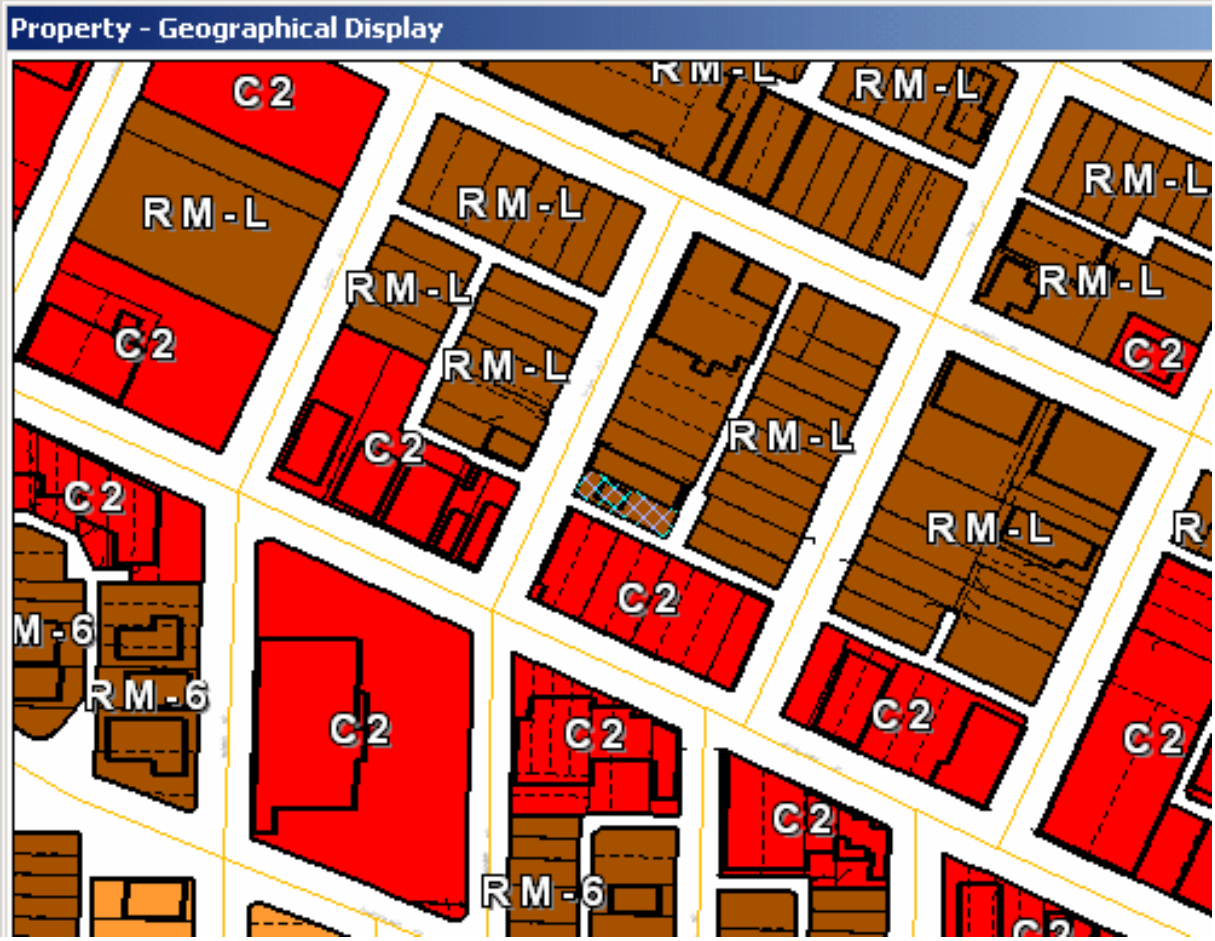


Figure 2: Zoning Map