

City of Philadelphia



(Bill No. 130908-A)

AN ORDINANCE

To amend the Philadelphia Zoning Maps by changing the zoning designations of certain areas of land located within an area bounded by Spruce Street, Juniper Street, Cypress Street, Watts Street, Pine Street and Broad Street, by amending Chapter 14-500 of the Zoning Code entitled “Overlay Zoning”, by amending Chapter 14-700 of the Zoning Code entitled “Development Standards”, and by amending Chapter 14-800 of the Zoning Code entitled “Parking and Loading”, under certain terms and conditions.

WHEREAS, This area of the City has been zoned for high rise commercial development since the City of Philadelphia adopted its first Zoning Code; and

WHEREAS, The proposed Avenue Place development includes a residential tower, a hotel, retail space and off-street parking; and

WHEREAS, The development includes a proposal to close a portion of the 1300 block of Cypress Street to provide for better access to and management of the parking and guest and customer servicing areas for the development; and

WHEREAS, Avenue Place includes the construction of a five star hotel which will support the growth of the Avenue of the Arts; and

WHEREAS, Avenue Place includes significant new retail commercial space to serve occupants of the building, hotel guests, residents of the community, and the general public; and

WHEREAS, Avenue Place has been designed by the world renowned architecture firm of Kohn, Pederson, Fox, world leaders in the design of monumental buildings; and

WHEREAS, The construction of Avenue Place will provide significant construction jobs for a period of more than three years as well as significant permanent jobs upon the completion of construction; and

WHEREAS, Avenue Place has committed to an Economic Opportunity Plan attached hereto as Exhibit A, which provides for contracting and employment opportunities for minorities, women and the disabled; now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

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SECTION 1. Title 14 of The Philadelphia Code is hereby amended to read as follows:

TITLE 14. ZONING AND PLANNING.

* * *

CHAPTER 14-500. OVERLAY ZONING.

* * *

§14-502. /CTR, Center City Overlay.

* * *

(5) Supplemental Use Controls.

(a) Use Table 14-502-2.

* * *

(.6) Notes for Table 14-502-2.

* * *

[5] Permitted for lots designated "CMX-5" within the area bounded by Spruce Street, Juniper Street, Cypress Street, Watts Street, Pine Street and Broad Street.

	Chestnut and Walnut Street Area, East	Chestnut and Walnut Street Area, West	Broad Street Area, South	Broad Street Area, North	Chinatown Area	Old City Residential Area	South Street/Head House Square Area	Use-Specific Standards
N = Not allowed (expressly prohibited) S = Special exception approval required Blank = No overlay-specific regulations apply See § 14-502(5)(a)(.6) (Notes for Table 14-502-2) for information pertaining to bracketed numbers (e.g., "[2]") in table cells.								
Public, Civic, and Institutional Use Category								
Utilities and Services, Basic		[1]	N			N		
Retail Sales Use Category								
Adult-oriented Merchandise	N	N	N	N		N		
Retail Sales of Consumer Goods, Furniture, Appliances, and Equipment (as noted below)								
Drug Paraphernalia Sales	N	N	N	N		N		§ 14-603(13)
Gun Shop	N	N	N	N		N		§ 14-603(13)
Commercial Services Use Category								

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Adult-Oriented Service	N	N	N	N		N		§ 14-603(13)
Assembly and Entertainment					N	N	N	§ 14-603(13)
Eating and Drinking Establishments (except as noted below)		S[4]	S[4]/[5]			S[4]		§ 14-603(6)
Take-Out Restaurant	N	N	N	N		S[4]	N	§ 14-603(6)
Financial Services (except as noted below)		[2]						
Personal Credit Establishment	N	N	N	N		N		§ 14-603(13)
Parking	N	N	N/[5]		N	N		
Personal Services (except as noted below)				N				
Body Art Service	N	N	N	N		N	N	§ 14-603(2); § 14-603(13)
Fortune Telling Service	[3]	[3]	[3]	[3]		[3]	[3]	
Vehicle and Vehicular Equipment Sales and Services Use Category								
All Uses	N	N	N	N	N	N	N	
Wholesale, Distribution, Storage Use Category								
All Uses	N	N	N	N	N	N		

* * *

(6) Parking and Loading Regulations.

The following parking regulations apply to the areas described in each subsection.

(a) Motor Vehicle Ingress and Egress Restrictions.

Vehicular ingress and egress is prohibited to and from the following: (See Parking and Loading Regulations Area Map 1 for illustrative purposes only):

* * *

- (.4) Spruce Street within the Spruce Street Area, East, *except for lots designated "CMX-5" within the area bounded by Spruce Street, Juniper Street, Cypress Street, Watts Street, Pine Street, and Broad Street;* and
- (.5) Benjamin Franklin Parkway.
- (.6) Accessory parking and loading and trash storage areas or structures in any of the following areas:
 - (.a) South Street/Head House Square Area, Central; and

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(b) Broad Street Area, South, *except for lots designated "CMX-5" within the area bounded by Spruce Street, Juniper Street, Cypress Street, Watts Street, Pine Street, and Broad Street.*

* * *

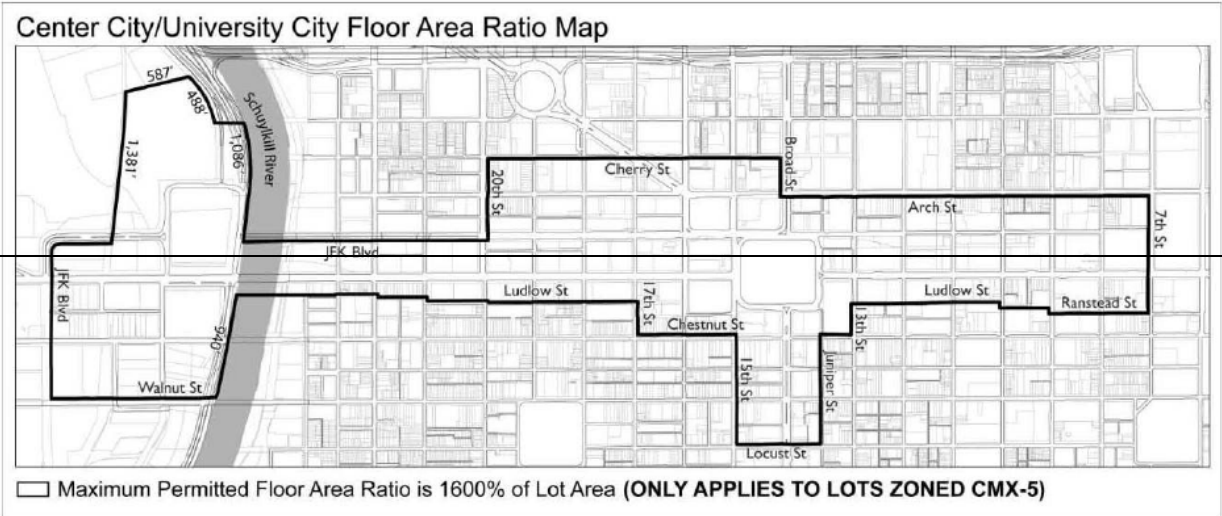
CHAPTER 14-700. DEVELOPMENT STANDARDS.

§14-701. Dimensional Standards.

* * *

(3) Commercial Districts Dimensional Table.

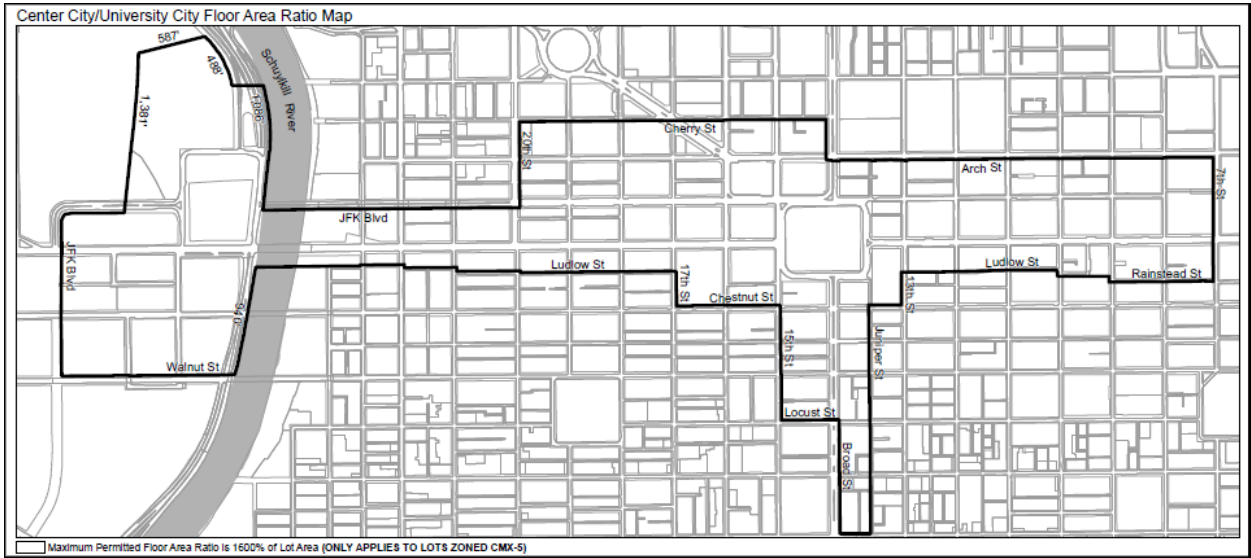
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CHAPTER 14-800. PARKING AND LOADING.

* * *

§14-806. Off-Street Loading.

* * *

(2) RMX-3, CMX-4, and CMX-5 Districts.

(a) Required spaces.

Off-street loading in RMX-3, CMX-4, and CMX-5 districts shall be provided in accordance with Table 14-806-2, *provided, that for lots designated "CMX-5" located within the area bounded by Spruce Street, Juniper Street, Cypress Street, Watts Street, Pine Street and Broad Street, 1 loading space shall be provided for every 450,000 square feet of gross floor area.*

(b) Minimum Dimensions.

Loading spaces shall be designed to meet the dimensions in Table 14-806-3, *except for lots designated "CMX-5" located within the area bounded by Spruce Street, Juniper Street, Cypress Street, Watts Street, Pine Street and Broad Street.*

* * *

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(d) Ingress and Egress.

Each individual loading space or group of loading spaces shall be limited to one two-way curb cut with a maximum width of 24 ft. on the street frontage or two one-way curb cuts with a maximum width of 16 ft. on each street frontage (*except for lots designated "CMX-5" located within the area bounded by Spruce Street, Juniper Street, Cypress Street, Watts Street, Pine Street and Broad Street*). As an exception to this standard, when the loading spaces or their access drives have direct access to a street of less than 40 ft. wide, there shall not be a limit imposed on the size of the curb cut(s) to that street. Driveways that cross the public sidewalk must be at the same level as the sidewalk. The driveway material must change at the building line to demarcate the transition to the sidewalk. Sidewalks should be visually continuous across driveways to indicate pedestrians have the right-of-way.

* * *

Explanation:

A ~~strike through~~ across a map means that the map is to be deleted from The Philadelphia Code.

SECTION 2. Pursuant to Section 14-103 of The Philadelphia Code, the Philadelphia Zoning Maps are hereby amended by changing the zoning designations of certain areas of land within an area bounded by Spruce Street, Juniper Street, Cypress Street, Watts Street, Pine Street and Broad Street, from the existing zoning designations indicated on Map "A" set forth below to the zoning designations indicated on Map "B" set forth below.

SECTION 3. Economic Opportunity Plan. The Economic Opportunity Plan, comporting with the requirements of Chapter 17-1600 of The Philadelphia Code is as follows

EXHIBIT A

City of Philadelphia
Economic Opportunity Plan
Broad and Spruce Associates, L.P.

I. Introduction, Definitions and Goals.

The City of Philadelphia strongly encourages the use of certified Minority ("MBE"), Women ("WBE"), Disabled ("DSBE") and Disadvantaged¹ ("DBEs") Business Enterprises (collectively, "M/W/DSBEs") and minority and female workers in various aspects of the design and construction of the development to be known as SLS International Hotel and Residences (the "Project") at Broad and Spruce Streets (the "Site") owned or to be owned by Broad and Spruce Associates, L.P., a Pennsylvania limited partnership ("Broad and Spruce"). In support of this objective, the City of Philadelphia will require that the owners of the Project commit to this Economic Opportunity Plan ("EOP" or "Plan").

This Plan contains ranges of projected M/W/DSBE utilization and goals for the employment of minority and female workers in connection with the Project at the Site. This Plan shall be a part of and incorporated into the resulting agreement(s) with the owners of Broad and Spruce.

Broad and Spruce hereby verifies that all information submitted to the Office of Economic Opportunity ("OEO") in response to this Plan, is true and correct and take notice that the submission of false information is subject to the penalties of 18 PA C. S. Section 4904, relating to unsworn falsification to authorities and 18 PA C. S. Section 4107.2 (a)(4), relating to fraud in connection with minority business enterprises or women's business enterprises.

For the purposes of this Plan, MBE, WBE, DBE and DSBE shall refer to certified businesses so recognized by OEO. Only the work or supply effort of firms that are certified as M/W/DSBEs by an OEO approved certifying agency² will be eligible to receive credit as a Best and Good Faith Effort. In order to be counted, certified firms must successfully complete and submit to the OEO an application to be included in the OEO Registry which is a list of registered M/W/DSBEs maintained by the OEO and available online at www.phila.gov/oec/directory.

For this Plan, the term "Best and Good Faith Efforts," the sufficiency of which shall be in the sole determination of the City, means: efforts, the scope, intensity and appropriateness of which are designed and performed to foster meaningful and representative opportunities for participation by M/W/DSBEs and an appropriately diverse workforce and to achieve the objectives herein stated. Best and Good Faith Efforts are rebuttably presumed met when

¹ Disadvantaged Business Enterprises ("DBEs") are those socially or economically disadvantaged minority and woman owned businesses certified under 49 C.F.R. Part 26.

² A list of "OEO approved certifying agencies" can be found at www.phila.gov/oec

commitments are made within the M/W/DSBE participation ranges established for the improvements and a commitment is made to employ a diverse workforce as enumerated herein.

II. Project Scope.

The Project consists of the design and construction of a hotel with 149 rooms, 123 residential units, retail and parking at the Site. The Site will be improved, subject to various approvals necessary for the construction of the Project. Participants shall include certain design or other professional service providers and their respective consultants, the general contractor or construction manager (hereinafter referred to as the "General Contractor") retained to construct the Project (collectively, the "Participants").

III. Goals.

1. M/W/DSBE Participation Ranges.

As a benchmark for the expression of "Best and Good Faith Efforts" to provide meaningful and representative opportunities for M/W/DSBEs in the Project, the following participation ranges have been established. These participation ranges represent, in the absence of discrimination in the solicitation and selection of M/W/DSBEs, the percentage of MBE, WBE and DSBE participation that is reasonably attainable through the exercise of Best and Good Faith Efforts. These percentages relate to the good faith estimated cost of the Project. In order to maximize opportunities for as many businesses as possible, a firm that is certified in two or more categories (e.g., MBE and WBE and DSBE or WBE and DSBE) will only be credited toward one participation range as either an MBE or WBE or DSBE. The ranges are based upon an analysis of factors such as the size and scope of the improvements and the availability of MBEs, WBEs, DSBEs and DBEs to participate in the improvements:

The following contract goals have been set for the Project:

Contracts	Minority Owned	Female Owned	Disabled Owned
Professional Services	5-10%	5%	Best Efforts
Construction	20-25%	7%	Best Efforts

2. Employment Goals.

The following Construction contract goals have been set for the Project:

Local Residents and Operation
50%

Broad and Spruce agrees to exhaust Best and Good Faith Efforts to employ minority persons and females in its workforce of apprentices and journeymen at the following levels³:

Minority Apprentices - 50% of all hours worked by all apprentices.

Minority Journeymen - 32% of all journey hours worked across all trades.

Female Apprentices - 7% of all hours worked by all apprentices.

Female Journeypersons - 2-5% of all hours worked across all trades.

IV. Responsiveness.

1. Broad and Spruce and relevant participants shall identify M/W/DSBE commitments and other agreements evidencing its intent to use Best and Good Faith efforts to employ minority persons and females at the levels stated herein. The identified commitments constitute a representation that the M/W/DSBE is capable of providing commercially useful goods or services relevant to the commitments and that Broad and Spruce and participants have entered into legally binding commitments or other legally binding agreements with the listed M/W/DSBEs for the work or supply effort described and the percentage amounts set forth. In calculating the percentage of M/W/DSBE participation, the standard mathematical rules apply in rounding off numbers.

2. M/W/DSBE commitments are to be memorialized in a written subcontract agreement. Letters of intent, quotations, contracts, subcontracts and any other documents evidencing commitments with M/W/DSBEs, including the M/W/DSBE Participation and Workforce Commitments Form, become part of and an exhibit to the Agreement.

3. OEO reserves the right to request further documentation and/or clarifying information at any time during the construction of the Project.

V. Compliance and Monitoring of Best and Good Faith Efforts.

1. To the extent required by law, Broad and Spruce shall ensure that its on-site contractors maintain certified payrolls which include a breakout of hours worked by minority and female apprentices and journeypersons. These documents are subject to inspection by OEO.

2. Prompt Payment of M/W/DSBEs. Broad and Spruce agrees and shall cause its contractors to ensure that M/W/DSBEs participating in the Project receive prompt payment for their work or supply after receipt of a proper invoice following satisfactory performance.

3. Oversight Committee. Broad and Spruce and the City of Philadelphia, in consultation with the appropriate agencies and entities, will establish and identify the members of a Project Oversight Committee, including representatives from Broad and Spruce, the Developer and/or the General Contractor and Construction Manager, the Office of Economic Opportunity, City Council, community organizations and the Building Trades. Participants will engage in

³ These goals, which have been adopted by the Economic Opportunity Cabinet, are the recommendations of the Mayor's Commission on Construction Industry Diversity.

monitoring, reporting and problem solving activities which are to include regular meetings to address all matters relevant to further development of the Plan, carrying out its implementation and the successful completion of the Project.

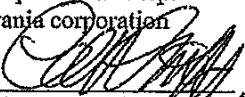
4. Reporting. Broad and Spruce agrees to file an annual report with the City of Philadelphia and City Council concerning the performance of the Economic Opportunity Plan through the duration of the Project. In addition, during construction, Broad and Spruce will provide "snapshot" reports containing updates for certain categories of information contained in its annual report on a monthly basis during construction. Snapshot reporting will include: (i) utilization of M/W/DSBEs and/or DBEs, and (ii) the hiring and employment of minorities and females. All reports (quarterly & annually) provided to the City under this section will also be provided to the Office of Economic Opportunity.

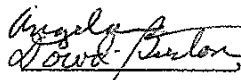
VI. Remedies and Penalties for Non-Compliance.

1. Broad and Spruce agrees that its compliance with the requirements of this Plan is material to the Agreement. Failure to comply with the Plan may constitute a substantial breach of the Agreement and is subject to the remedies and penalties contained therein or otherwise available at law or in equity. Notwithstanding the foregoing, no privity of contract exists between the City and any M/W/DSBE identified in any contract resulting from implementation of the Plan. Neither Broad and Spruce nor the City intends to give or confer upon any such M/W/DSBE any legal rights or remedies in connection with subcontracted services under any law or policy or by any reason of any contract resulting from implementation of the Plan except such rights or remedies that the M/W/DSBE may seek as a private cause of action under any legally binding contract to which it may be a party.

BROAD AND SPRUCE ASSOCIATES, L.P.
a Pennsylvania limited partnership

By: Broad and Spruce GP Corp.
a Pennsylvania corporation

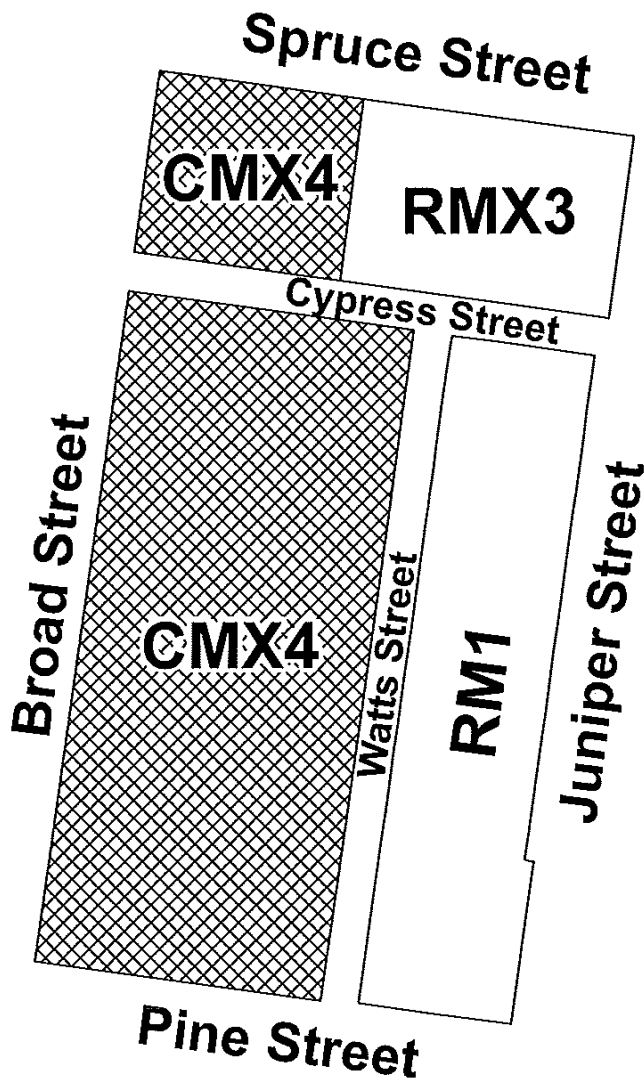
By: 
Carl E. Dranoff, President⁴


ANGELA DOWD-BURTON, Director, Office of Economic Opportunity⁵




⁴ The Owner's Representative is required to sign and date, but the City reserves the right to obtain the Owner's Representative signature thereon at any time prior to Plan certification. The Owner Representative will receive from the City a certified copy of its Plan which should be filed with the Chief Clerk of City Council within fifteen (15) days of the issuance and published by OEO, in a downloadable format, on the OEO website.

⁵ Pursuant to Section 17-1603 (2) of The Philadelphia Code, the representative of the City of Philadelphia's Office of Economic Opportunity, the "certifying agency", certifies that the contents of this Plan are in compliance with Chapter 17-1600

Map A - Existing Zoning

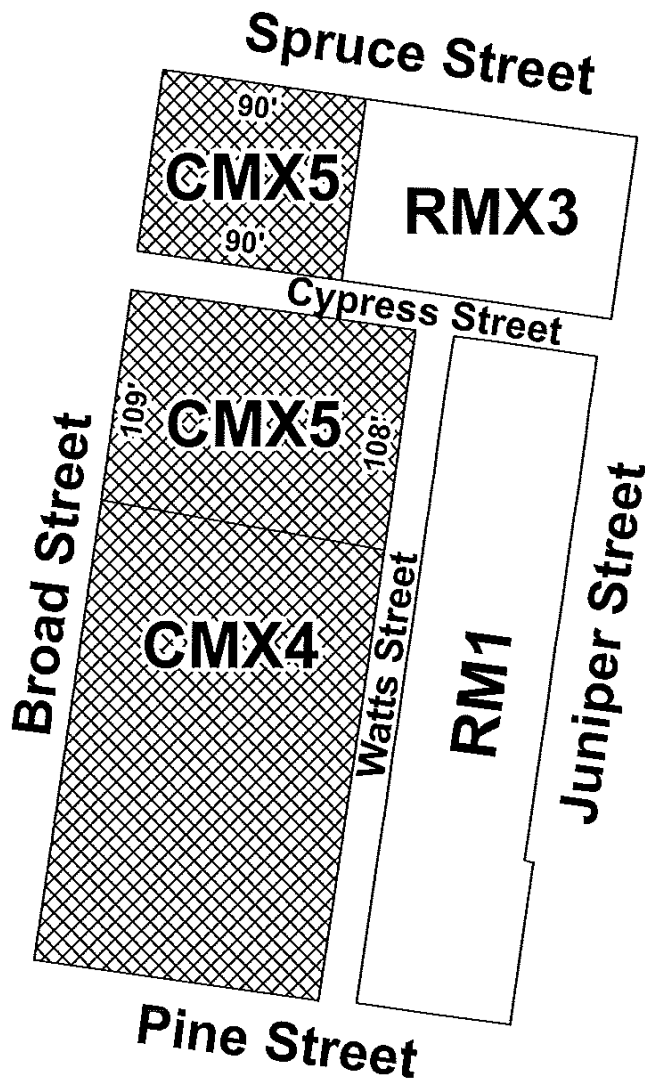


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
-  CMX4 Center City Commercial Mixed-Use
-  RM1 Residential Multi-Family
-  RMX3 Residential (Center City) Mixed-Use



Map B - Proposed Zoning



Legend

-  **CMX4** Center City Commercial
-  **CMX5** Center City Core Commercial Mixed-Use
-  **RM1** Residential Multi-Family
-  **RMX3** Residential (Center City) Mixed-Use



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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on March 20, 2014. The Bill was Signed by the Mayor on March 31, 2014.



Michael A. Decker
Chief Clerk of the City Council