

# REUBEN, JUNIUS & ROSE, LLP

April 19, 2023

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## Delivered Electronically

Honorable Supervisor Myrna Melgar  
Honorable Supervisor Dean Preston  
Honorable Supervisor Aaron Peskin  
Land Use and Transportation Committee  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

**Re: BOS File No. 230058**  
**Rezone Designated RM-2 Parcel at 2901 Pacific Avenue (0976/001)**  
**Brief in Support of the Proposed Legislation**  
**Committee Hearing Date: April 24, 2023**  
Our File No.: 11074.01

Dear Supervisors Melgar, Preston and Peskin:

Our office represents PHI Associates, LP (“**Owner**”), the owner of the property located at 2901 Pacific Avenue, Assessor’s Block 0976, Lot 001 (“**Property**”), that is the subject of legislation before you on rezoning of a designated RM-2 parcel. This legislation under the Board of Supervisors’ File No. 230058 (“**Legislation**”) would permit the Property to be used for up to 47 tourist hotel rooms. The Legislation is the second step in an overall settlement between the Owner and the City that was approved by the Board of Supervisors (“**BOS**”) on December 6, 2022, and by the Mayor on December 16, 2022, under Ordinance No. 251-22, BOS File No. 220729, that became effective on January 18, 2023 (“**Settlement**”). The Government Audit and Oversight Committee heard Ordinance No. 251-22 in closed session on October 10, 2022, November 3, 2022, and November 17, 2022.

For the past few years, the Property Owner has worked closely with Supervisor Catherine Stefani and the City Attorney’s Office to arrive at a resolution that is, in part, implemented with the Legislation before you on April 24<sup>th</sup>. We very much appreciate the overall cooperation and we look forward to completing these final steps consistent with the prior BOS Settlement approval. We ask for your support in recommending approval of the Legislation, as proposed, to the full Board.

As part of the Settlement, the Property owner will pay \$2.5M to provide for construction loan repayment and funding of capital improvements and operating reserves for the Veterans Academy housing located at 1030 Girard Road, San Francisco. The Veterans Academy is operated by Swords to Plowshares, which is a 501(c)(3) non-profit organization that is dedicated to supporting homeless, low-income and at-risk veterans in the Bay Area. They have provided permanent, supportive housing to formerly homeless veterans with disabilities at 1030 Girard Road

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since 2000, housing up to 108 low-income veterans. The funding provided by the Settlement will, in part, repay a loan for the installation of building elevators that was critical to keeping the second and third floors of the Veterans Academy operational and available for housing, by allowing existing residents with increasing mobility issues to age in place.

The Property that is the subject to the pending Legislation is a Pacific Heights Property improved with a 4-story building constructed in 1903 that has been used as a hotel since 1925, currently as the Hotel Drisco. The Property was incorrectly categorized as a mix of residential and tourist hotel rooms in 1979. The City's Department of Building Inspections ("DBI") initiated enforcement of the Residential Hotel Unit Conversion and Demolition Ordinance, under Article 41 of the City's Administrative Code ("HCO") against the Property in 2018. The Property Owner challenged DBI's application of the HCO to the Property in 2021, with the filing of a petition and complaint in the San Francisco Superior Court. As noted earlier, the lawsuit was settled between the Property Owner and the City in late 2022, after the terms of the settlement were approved unanimously with a 11-0 vote by the BOS on December 6, 2022.

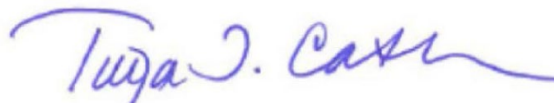
The rezoning of the Property is under separate Legislation, but it is a required step that is part of the Settlement the BOS approved in December 2022. Without the rezoning that is proposed in the pending Legislation, the Settlement falls apart as the City would be unable to finalize its deliverables, and as a consequence the Veterans Academy would not receive the \$2.5M payment provided for in the Settlement. The Legislation was heard and unanimously recommended for approval by the Planning Commission on March 23, 2023.

Importantly, the Legislation does not rezone the entire Property. The Legislation does not even change the operation or character of the Property in any way that deviates from its current and historical use. On paper, the Legislation will result in an increase in the number of tourist hotel rooms at the Property, but in practice there is no change since the Legislation essentially corrects the prior mischaracterization of the Property as a mix of residential and tourist hotels. Since the Property's current RM-2 zoning does not allow new tourist hotels with more than 6 rooms, the legislative change to the zoning is necessary in order to allow the Property to be used as it has historically been used, as a tourist hotel.

We respectfully ask the Commission to recommend approval of the Legislation to the full Board of Supervisors. The Property owner team is available for any questions you may have. Thank you for your time.

Very truly yours,

**REUBEN, JUNIUS & ROSE, LLP**



Tuija I. Catalano

cc: Honorable Supervisor Catherine Stefani  
Tom Callinan, Property Owner  
Boe Hayward, Consultant