

File No. 230058 Committee Item No. 3
Board Item No. 12

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date April 24, 2023

Board of Supervisors Meeting Date May 9, 2023

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
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OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Referral CEQA PC 012723</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Hearing Notice 042423</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>CEQA Determination 030223</u> |
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Completed by: Alisa Somera Date April 20, 2023

Completed by: Erica Major Date April 28, 2023

[Planning Code, Zoning Map - Rezone Designated RM-2 Parcel]

Ordinance amending the Planning Code and Zoning Map to rezone Assessor's Parcel Block No. 0976, Lot No. 001, located in the Residential Mixed, Moderate Density (RM-2) District to permit use for up to 47 Tourist Hotel Rooms; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

NOTE: **Unchanged Code text and uncoded text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Environmental and Planning Code Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 230058 and is incorporated herein by reference. The Board affirms this determination.

(b) On March 23, 2023, the Planning Commission, in Resolution No. 21281, recommended the Planning Code and Zoning Map amendments in this ordinance for approval and adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section

1 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with
2 the Clerk of the Board of Supervisors in File No. 230058, and is incorporated herein by
3 reference.

4 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that the
5 Planning Code and Zoning Map amendments in this ordinance will serve the public necessity,
6 convenience, and welfare for the reasons set forth in Planning Commission Resolution No.
7 21281, and the Board incorporates such reasons herein by reference.

8
9 Section 2. General Findings.

10 (1) The Residential Hotel Unit Conversion and Demolition Ordinance was enacted
11 in 1990 as Chapter 41 of the Administrative Code ("Chapter 41"). The stated purpose of
12 Chapter 41 was "to benefit the general public by minimizing adverse impact on the housing
13 supply and on displaced low-income, elderly, and disabled persons resulting from the loss of
14 residential hotel units through their conversion and demolition."

15 (2) Section 41.3 of the Administrative Code includes the following findings:

16 (a) There is a severe shortage of decent, safe, sanitary and affordable rental
17 housing in the City and County of San Francisco and this shortage affects most severely the
18 elderly, the disabled and low-income persons.

19 (b) The people of the City and County of San Francisco, cognizant of the
20 housing shortage of San Francisco, on November 4, 1980, adopted a declaration of policy to
21 increase the city's housing supply by 20,000 units.

22 (c) Many of the elderly, disabled and low-income persons and households
23 reside in residential hotel units.

24 (d) A study prepared by the Department of City Planning estimated that there
25 were only 26,884 residential hotel units in the City in December of 1979, a decrease of 6,098

1 such units from 1975. Since enactment of this Chapter, residential hotel units have continued
2 to decrease, at a slower rate: in 1981, there were 20,466 residential hotel units as defined by
3 this Chapter; in 1988, there were 18,723 residential hotel units, a decrease of 1,743 over a
4 period of years. The decrease is caused by vacation, conversion or demolition of residential
5 hotel units. Continued vacation, conversion or demolition of residential hotel units will
6 aggravate the existing shortage of affordable, safe and sanitary housing in the City and
7 County of San Francisco.

8 (e) As a result of the removal of residential hotel units from the rental housing
9 market, a housing emergency exists within the City and County of San Francisco for its
10 elderly, disabled and low-income households.

11 (f) Residential hotel units are endangered housing resources and must be
12 protected.

13 (g) The Board of Supervisors and the Mayor of the City and County of San
14 Francisco recognized this housing emergency and enacted an ordinance which established a
15 moratorium on the demolition or conversion of residential hotel units to any other use. The
16 moratorium ordinance became effective on November 21, 1979.

17 (h) The conversion of residential hotel units affects those persons who are
18 least able to cope with displacement in San Francisco's housing market.

19 (3) Pursuant to Sections 41.12 and 41.13 of the Administrative Code, the owner or
20 operator of a residential hotel within Chapter 41's scope may apply to convert or demolish one
21 or more residential units by providing for a one-to-one replacement of the unit(s) by one of the
22 methods set forth in Section 41.13.

23 (4) Since its enactment in 1990, provisions of the Residential Hotel Unit Conversion
24 and Demolition Ordinance have been amended from time to time to ensure that its provisions
25 continue to align with its original intent (a) to preserve affordable rental housing for elderly,

disabled, and low-income persons and households who are least able to cope with displacement and (b) to require a one-for-one replacement of these residential units if the hotel owner or operator is allowed to convert or demolish them.

(5) This ordinance contemplates that there are a limited number of existing hotels in the City that are subject to Administrative Code Chapter 41 but were built by design to be hotels with high-end services and have never been affordable rental housing. This ordinance provides an alternative means to benefit San Francisco’s low-income, elderly and formerly houseless citizens without having an adverse impact on the City’s supply of affordable rental housing that the Residential Hotel Unit Conversion and Demolition Ordinance was intended to address.

Section 3. The Planning Code is hereby amended by revising Section 209.2, to read as follows:

SEC. 209.2. RM (RESIDENTIAL, MIXED) DISTRICTS.

* * * *

**Table 209.2
ZONING CONTROL TABLE FOR RM DISTRICTS**

Zoning Category	§ References	RM-1	RM-2	RM-3	RM-4
* * * *					
NON-RESIDENTIAL STANDARDS AND USES					
* * * *					
Sales and Service Category					
Retail Sales and Service Uses*	§ 102	NP	NP	NP	NP
Hotel	§ 102	C(4)	C(4)	C(4)	C(4)
* * * *	* * * *	* * * *			

* Not listed below.

* * * *

(4) C for 5 or fewer guest rooms or suites of rooms; NP for 6 or more guest rooms; provided, however, that a total of up to 47 Tourist Hotel rooms are Principally Permitted on Block 0976, Lot 001, subject to the provisions of Ordinance No. 251-22.

Section 4. This ordinance shall have no retroactive effect and does not forgive or waive enforcement of any violations that occurred prior to the ordinance's effective date.

Section 5. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ KRISTEN A. JENSEN
KRISTEN A. JENSEN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code, Zoning Map - Rezone Designated RM-2 Parcel]

Ordinance amending the Planning Code and Zoning Map to rezone Assessor's Parcel Block No. 0976, Lot No. 001, located in the Residential Mixed, Moderate Density (RM-2) District to permit use for up to 47 Tourist Hotel Rooms; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

The Planning Code and Zoning Map limit the uses, height and bulk of buildings in the City.

Amendments to Current Law

This legislation would rezone Block 0976, Lot 001 located in the RM-2 District to permit use for up to 47 Tourist Hotel Rooms as a principally permitted use.

Background Information

This legislation is proposed in connection with and as a requirement of a settlement of litigation brought by the owner of the hotel located on Block 0976, Lot 001 challenging San Francisco's enforcement of the Hotel Conversion Ordinance. Under the terms of that settlement, the owner has agreed to make various payments to support the Veterans' Academy, a permanent supportive housing program for very low-income veterans operated by Swords to Plowshares. The terms of the settlement are described further in Board File No. 220729.

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BOARD of SUPERVISORS



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1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: January 27, 2023
To: Planning Department / Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 230058
Planning Code, Zoning Map - Rezone Designated RM-2 Parcel

- ☒ California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - ☒ Ordinance / Resolution
 - ☐ Ballot Measure
- ☒ Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - ☐ General Plan
 - ☒ Planning Code, Section 101.1
 - ☒ Planning Code, Section 302
- ☐ Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- ☐ General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- ☐ Historic Preservation Commission
 - ☐ Landmark (*Planning Code, Section 1004.3*)
 - ☐ Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - ☐ Mills Act Contract (*Government Code, Section 50280*)
 - ☐ Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

03/02/2023

A handwritten signature in black ink, appearing to be "Erica Major", written over the date.



March 29, 2023

Ms. Angela Calvillo, Clerk
Honorable Supervisor Stefani
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Number 2023-001349PCA:
Rezone Designated RM-2 Parcel
Board File No. 230058

Planning Commission Recommendation: **Approval**

Dear Ms. Calvillo and Supervisor Stefani,

On March 23, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Stefani that would amend the Planning Code to rezone Assessor's Parcel Block No. 0976, Lot No. 001, located in the Residential Mixed, Moderate Density (RM-2) District to permit use for up to 47 Tourist Hotel Rooms via the addition of a footnote to Zoning Control Table 209.2.. At the hearing the Planning Commission recommended approval.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

Aaron D. Starr
Manager of Legislative Affairs

cc: Kristen Jensen, Deputy City Attorney
Dominica Donovan, Aide to Supervisor Stefani
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution

Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21281

HEARING DATE: MARCH 23, 2023

Project Name: Rezone Designated RM-2 Parcel
Case Number: 2023-001349PCA [Board File No. 230058]
Initiated by: Supervisor Stefani/ Introduced January 24, 2023
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.Merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, (628) 652-7533

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO REZONE ASSESSOR'S PARCEL BLOCK NO. 0976, LOT NO. 001, LOCATED IN THE RESIDENTIAL MIXED, MODERATE DENSITY (RM-2) DISTRICT TO PERMIT USE FOR UP TO 47 TOURIST HOTEL ROOMS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on January 24, 2023, Supervisor Stefani introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 230058, which would amend the Planning Code to rezone Assessor's Parcel Block No. 0976, Lot No. 001, located in the Residential Mixed, Moderate Density (RM-2) District to permit use for up to 47 Tourist Hotel Rooms;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on March 23, 2023; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15378 15060(c)(2); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves** the proposed ordinance.

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

The Commission recommends approval of the proposed Ordinance for several reasons. Due to the location and the high price of the rooms at the Hotel Drisco, the Residential Units in the hotel have never served elderly or low-income tenants that are the intended beneficiaries of the Hotel Conversion Ordinance. The proposed settlement, on the other hand, would relieve Swords to Plowshares of certain repayment obligations, redirecting those funds and the additional \$500,000 payment to be used to serve very low-income veterans (most formerly homeless) living within one mile of the hotel, and to ensure long-term stable, permanent supportive housing for this vulnerable population. The building and impact to residents in the surrounding area will be non-existent, as the settlement agreement does not allow the hotel to operate more hotel rooms or any other new uses than it currently has. Additionally, the Veteran's Academy, which will benefit from the settlement agreement, is located in a high resource area, where a high concentration of resources are located that have been shown to support positive economic, educational, and health outcomes for low-income families.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 3.B

CREATE A SENSE OF BELONGING FOR ALL COMMUNITIES OF COLOR WITHIN WELL-RESOURCED NEIGHBORHOODS THROUGH EXPANDED HOUSING CHOICE.

Action 1.7.9

Create or expand programs to provide housing counseling, financial literacy education, and housing readiness to low-income American Indian, Black and other people of color households who seek housing choices in Well-resourced Neighborhoods by 2024, and provide incentives and counseling to landlords in Well-resourced Neighborhoods to offer units to low-income households.

The proposed ordinance will ensure that the settlement agreement is finalized, thereby giving Swords to Plowshares the funding it needs to continue to house and support formerly homeless and disabled veterans at its location within a well-resourced neighborhood.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss

of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on March 23, 2023.



Jonas P. Ionin
Commission Secretary

Jonas P Ionin
Digitally signed by Jonas P Ionin
Date: 2023.03.27 11:05:44 -0700

AYES: Braun, Diamond, Imperial, Koppel, Moore, Tanner

NOES: None

ABSENT: Ruiz

ADOPTED: March 23, 2023



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: March 23, 2023

90-Day Deadline: April 24, 2023

Project Name: Rezone Designated RM-2 Parcel
Case Number: 2023-001349PCA [Board File No. 230058]
Initiated by: Supervisor Stefani / Introduced January 24, 2023
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.Merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

Recommendation: Approval

Planning Code Amendment

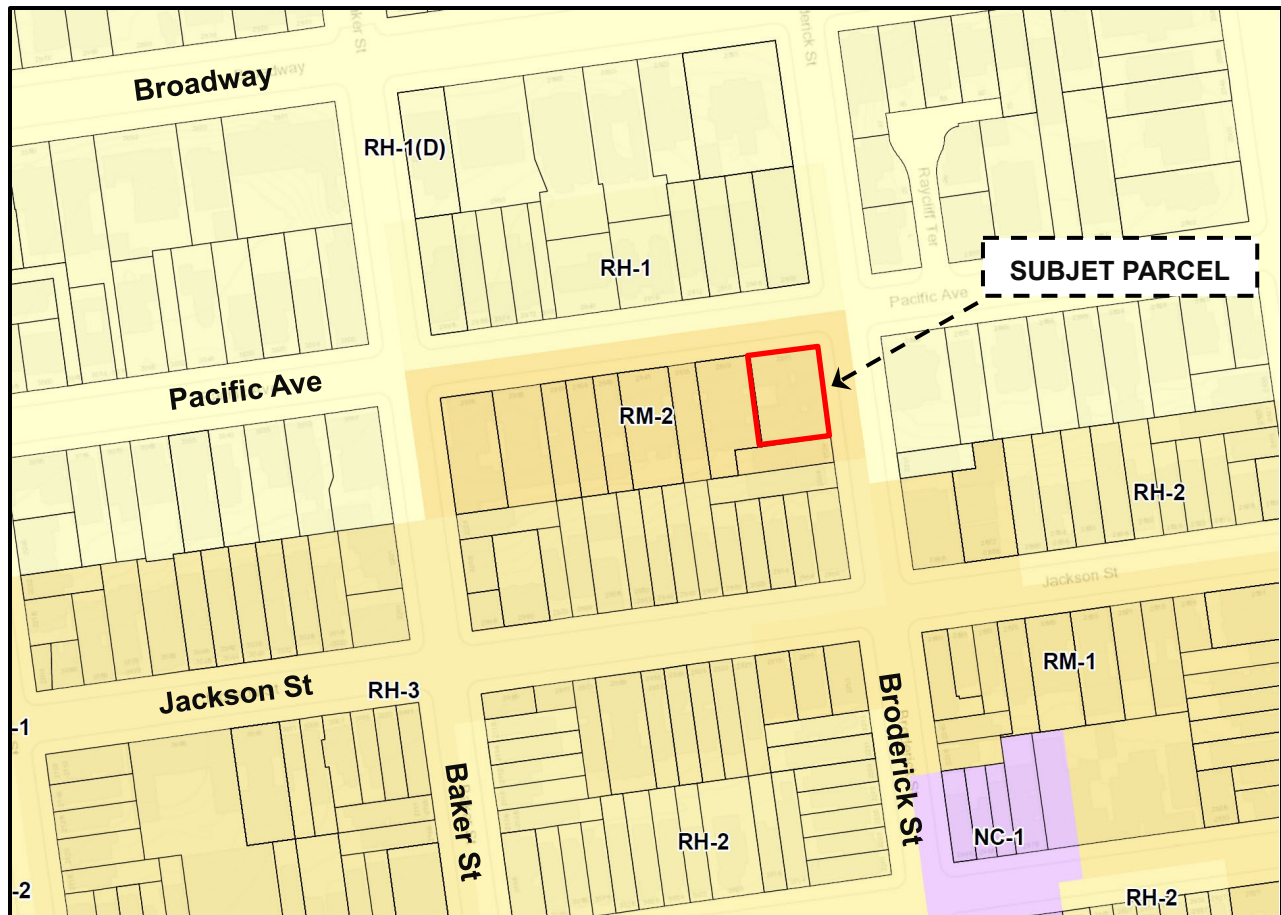
The proposed Ordinance would amend the Planning Code to rezone Assessor's Parcel Block No. 0976, Lot No. 001, located in the Residential Mixed, Moderate Density (RM-2) District to permit use for up to 47 Tourist Hotel Rooms via the addition of a footnote to Zoning Control Table 209.2.

The Way It Is Now:

In the RM-2 District, Hotels for 5 or fewer guest rooms require Conditional Use authorization, and Hotels with more than 5 guest rooms are Not Permitted.

The Way It Would Be:

On Block 0976, Lot 001, up to 47 Tourist Rooms would be Principally Permitted.



Background

Hotel Drisco

The subject parcel, located at 2901 Pacific Avenue, is the site of the Hotel Drisco. The hotel currently includes 16 Guest Rooms designated as Residential Units under San Francisco Administrative Code Article 41.

In 2018, the San Francisco Department of Building Inspection's Housing Inspection Services issued a Notice of Violation (NOV 201866251) to the owner of the Hotel Drisco for failure to comply with the HCO and San Francisco Housing Code section 106A.1.12. Following negotiations between the City and the owner, by a separate settlement agreement, the City and owner settled their respective claims related to the owner's prior use of Residential Units at the hotel but did not release the owner from its obligation to comply with the provisions of Administrative Code Chapter 41 on and after March 31, 2020.

On March 17, 2021, the owner filed a petition and complaint in the San Francisco Superior Court (*Phi Associates vs. City and County of San Francisco*, S.F. Superior Case No. CPF-21-517409), challenging the City's application of the HCO to the hotel.

To settle the lawsuit, the City and owner have agreed that in lieu of a direct payment of fees under the HCO, the owner will make certain payments to benefit an existing affordable housing project operated by Swords To Plowshares at 1030 Girard Road, San Francisco (the “Veterans Academy”), described further below. As a part of this settlement, the owner also requests that five rooms currently designated as suites will be reclassified as individual Tourist Hotel Rooms, which will result in no physical changes to the hotel but will increase the hotel taxes available to the City.

The Veteran’s Academy (Swords to Plowshares)

The Veteran’s Academy is the first-ever permanent supportive housing program for very low-income veterans in the nation, which has been in operation since 2000, and is home to 108 formerly homeless veterans with disabilities, and remains the only low-income housing in the Presidio. The Veterans Academy provides permanent supportive housing in two, three-story buildings (47,094 square feet) facing each other across a communal plaza. Built to house able-bodied young adults as a U.S. Army barracks, the site was reconfigured as supportive housing for homeless veterans in 2000 with few improvements. Most Veterans Academy residents have deteriorating health from decades of chronic homelessness, substance use, untreated mental and physical healthcare needs. Of the 108 veteran residents, 75% are seniors, 62% have a mental health diagnosis, 49% have a chronic health condition, and 40% have a physical disability. Residents are all formerly homeless and most are extremely low-income: 63% are acutely low-income (15% of AMI); 25% extremely low-income (30% of AMI); 10% very low-income; 2% moderately low-income.

Swords To Plowshares determined that elevators were needed to address the critical mobility needs of its residents. Without elevators, stairs provided the only access to upper floor units. Veterans with the greatest physical disabilities—those using a wheelchair, walker, or cane—were moved to the first floor, but many residents with deteriorating health and chronic conditions were isolated in their upper floor rooms, greatly impacting their mental health and that of the larger community. As existing residents age in place, their mobility will naturally decrease. Without elevators, many of these residents would have needed to move to a site with a higher level of care, simply due to their inability to access their upper floor units, and the Veterans Academy cannot accept new residents with mobility needs. To address this need, Swords to Plowshares obtained a \$2,500,000 loan from the Bank of San Francisco to fund elevator installation. The obligation to repay this loan impacts the ability of Swords to Plowshares to fund other programs and services at the Veterans’ Academy. The Veteran’s Academy is located approximately 1 mile from the Hotel Drisco.

Settlement Agreement

For the settlement to become effective, the City, owner of the Hotel Drisco, and Swords to Plowshares must each finally approve, execute, and deliver all of the following documents:

1. A settlement agreement between Owner, the City and Swords to Plowshares (the “Settlement Agreement”);
2. An Affordable Housing Agreement between Swords To Plowshares and the City (the “Housing Agreement”) for long term affordable housing and services for veterans in the City, and a forgivable promissory note executed by Swords To Plowshares to the order of the City (the “Note”), which evidences

the financial contribution to affordable housing public benefits; and

3. Authorizing legislation (the “Authorizing Legislation”).

Details of the Settlement

The Settlement Agreement provides terms for the final settlement of all claims raised in the Lawsuit, including the payment of civil penalties, legal fees, and costs, with all parties bearing their own legal fees and costs. The owner of the Hotel Drisco will pay to the Bank of San Francisco in cash the total principal amount of \$2 million (the “First Settlement Payment”) and will instruct the Bank of San Francisco to apply the Settlement Payment to repayment of the Swords To Plowshares Loan. In addition, the owner will pay \$500,000 (“Second Settlement Payment” and, together with the First Settlement Payment, the “Settlement Payments”) directly to Swords to Plowshares, to be used for capital improvements and operating reserves for the Veterans’ Academy. The timing and other requirements for these payments are set forth in the Settlement Agreement. Subject to the terms of the Settlement Agreement, the City will fully release the owner from any and all liabilities related to any of the land use violations and other matters alleged in the Lawsuit and will remove the restrictions of Administrative Code Chapter 41 from the Hotel Drisco, in part by adoption of the Authorizing Legislation.

Affordable Housing Agreement

As a key part of the settlement, Swords to Plowshares will utilize the cost savings of the loan repayment and the additional payment of \$500,000 to provide affordable housing benefits to current and future very low-income veterans residing at the Veterans Academy under the Housing Agreement. In addition, Swords to Plowshares and its landlord, Presidio Trust, have agreed to engage in good faith negotiations to extend Swords to Plowshares’ lease of the Veterans Academy.

Swords to Plowshares agrees to continue to lease units at the Veterans Academy to veterans who are extremely low income and will allocate savings resulting from the relief from the construction loan to benefit the residents at Veterans Academy.

The City understands that the Presidio Trust and Swords to Plowshares executed a new 20-year lease in 2018, thus an extension will be up to 14.5 years such that the lease will have a remaining term of approximately 30 years from the settlement agreement. Swords to Plowshares agrees to continue to lease units at the Veterans Academy to veterans who are extremely low income, including during any extension of Swords to Plowshares’ current lease. Swords to Plowshares will allocate savings resulting from the relief from the construction loan to benefit the residents at Veterans Academy and fund maintenance of Veterans Academy, as set forth in the Housing Agreement.

To reflect its agreements with the City, Swords to Plowshares will execute a Promissory Note, which evidences the financial contribution to Veterans Academy. The Note will be forgiven in equal amounts over the next 16 years and will only be due if Swords to Plowshares discontinues providing affordable housing to very low-income veterans at the Veterans Academy or otherwise violates the terms of the Housing Agreement.

The Authorizing Legislation

The Authorizing Legislation (2023-001349PCA [Board File No. 230058]; Exhibit B) will make necessary amendments to the Planning Code to permit Tourist Use of up to 47 Tourist Hotel rooms as a principally permitted use following the effective date of the Settlement Agreement. After adoption of the Authorizing Legislation, DBI will issue the Hotel a Certificate of Use reflecting 47 Tourist Hotel Rooms and 0 Residential Units.

Board of Supervisors and Mayoral Approval

The Board of Supervisors approved the Settlement, which included as exhibits the Housing Agreement, Promissory Note and draft Authorizing Legislation, by Ordinance No. 251-22 on December 6, 2022. The Mayor approved the settlement ordinance on December 12, 2022. The settlement ordinance can be found as Exhibit C.

Issues and Considerations

Housing Affordability

The purpose of the Hotel Conversion Ordinance (HCO) under Chapter 41 of the Administrative Code is to preserve affordable rental housing for elderly, disabled, and low-income persons and households who are least able to cope with displacement. This vulnerable population often reside in Residential Hotel rooms. As a result of this diminishing type of housing, the City enacted a moratorium on the conversion of Residential Hotel rooms that were in existence as of November 21, 1979. The Hotel Drisco was documented at that time as having sixteen Residential Hotel rooms. Unlike many other hotels in the City that contain some mix of Residential Hotel rooms and Tourist Hotel rooms, the Hotel Drisco has historically served as a high-end hotel with rates that would be considered unaffordable. Based on staff research, the hotel has operated as a Tourist Hotel use since at least 1988 (based on City records) and have had a web presence advertising themselves as a high-end, full-service hotel since at least 2002. Although the HCO requires the preservation of Residential Hotel rooms that were in existence as of November 21, 1979, it does not restrict the rates these rooms may be let for. Even if the City were to require compliance with the HCO, the hotel would be permitted to do so by either allowing the residential rooms to remain vacant, or by marketing and renting these rooms at market rate for rents commensurate with its Pacific Heights location.

RM (Residential, Mixed) Districts

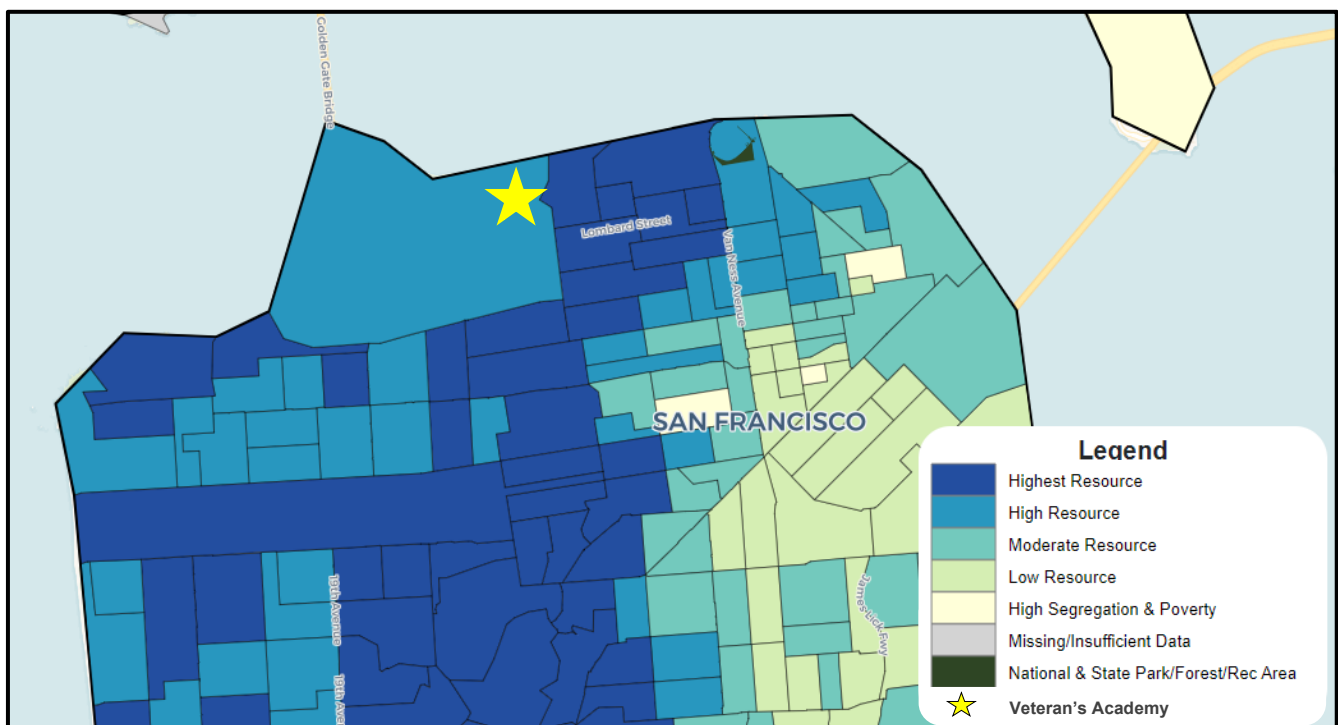
These Districts are intended to recognize, protect, conserve, and enhance areas characterized by a mixture of houses and apartment buildings, covering a range of densities, and building forms according to the individual district designations. Despite the range of densities and building sizes, most structures are of a scale that respects the traditional lot patterns, open spaces, and articulation of façades typical of San Francisco neighborhoods. These Districts provide unit sizes and types suitable for a variety of households and contain supporting nonresidential uses. The RM-2 District is comprised of a moderate density of units and contains a mixture of building types. Where nonresidential uses are present, they tend to offer services for wider areas than in RM-1 Districts.

The Hotel Drisco is located on a corner lot in the RM-2 District. Built in 1907 (based on Assessor information), the building is comprised of four full stories on a down sloping lot. Although denser than some buildings in the neighborhood, its location on the corner makes it better suited to serve as an anchor for the block. It is also the only Tourist Hotel within an approximate 1/3-mile radius. The proposed Ordinance would allow the Hotel Drisco to continue its operation of no more than 47 Tourist Hotel rooms. Although it is immediately surrounded by Residential uses, it is approximately 1.5 blocks away from a small cluster of NC-1-zoned shops, and approximately ¼ mile away from the Divisadero and California Street neighborhood commercial corridor, as well as the Sacramento Street Neighborhood Commercial District. Its longtime use as a hotel, its location on the corner of the

block, and its proximity to other non-residential use types all serve to support its continued use as a legal, non-conforming Tourist Hotel.

General Plan Compliance and Racial and Social Equity Analysis

San Francisco's recently certified Housing Element is the first General Plan Element to center on racial and social equity. It includes policies and programs that express the City's collective vision and values for the future of housing in San Francisco. As part of the settlement agreement, the owner of the Hotel Drisco will take on the remaining construction loan of Swords to Plowshares, at the cost of \$2 million which will be used to install elevators for the building's aging and disabled residents. The owner will additionally pay \$500k to Swords and Plowshares directly, to be used for capital improvements and operating reserves for the Veterans' Academy. Swords to Plowshares will utilize the cost savings to provide affordable housing benefits to current and future very low-income veterans residing at the Veterans Academy, and extend their lease an additional 14.5 years. The funding and lease extension will enable the non-profit to continue to provide housing to approximately 108 formerly homeless, disabled veterans.



CTAC Map of High Resource Areas

Located on federal land, the Veteran's Academy is in an area designated by the California Tax Credit Allocation Committee as "High Resource". These are places where the state has identified a high concentration of resources that have been shown to support positive economic, educational, and health outcomes for low-income families. Objective 3.B of the Housing Element is to "Create a sense of belonging for all communities of color within well-resourced neighborhoods through expanding housing choice". Action 1.7.9 directs the Department to "Create or expand programs to provide housing counseling, financial literacy education, and housing readiness to low-income American Indian, Black and other people of color households who seek housing choices in Well-resourced

Neighborhoods by 2024 and provide incentives and counseling to landlords in Well-resourced Neighborhoods to offer units to low-income households.” The proposed ordinance will ensure that the settlement agreement is finalized, thereby giving Swords to Plowshares the funding it needs to continue to house and support formerly homeless and disabled veterans at its location within a well-resourced neighborhood.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

Recommendation

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Basis for Recommendation

The Department recommends that the Commission approve the proposed Ordinance for several reasons. Due to the location and the high price of the rooms at the Hotel Drisco, the Residential Units in the hotel have never served the elderly or low-income tenants that are the intended beneficiaries of the Hotel Conversion Ordinance. The proposed settlement on the other hand, would relieve Swords to Plowshares of certain repayment obligations, redirecting those funds and the additional \$500,000 payment to be used to serve very low-income veterans (most formerly homeless) living within one mile of the hotel, and to ensure long-term stable, permanent supportive housing for this vulnerable population. The building and impact to residents in the surrounding area will be non-existent, as the settlement agreement does not allow the hotel to expand or add any other new uses. Additionally the Veteran’s Academy, which will benefit from the settlement agreement, is located in a high resource area, where a high concentration of resources are located that have been shown to support positive economic, educational, and health outcomes for low-income families.

Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Public Comment

As of the date of this report, the Planning Department has received one letter for public comment, from the representative of the owner of the Hotel Drisco. This letter is included as Exhibit D.

Attachments:

- Exhibit A: ~~Draft Planning Commission Resolution~~
- Exhibit B: Board of Supervisors File No. 230058
- Exhibit C: Settlement Ordinance Board File No. 220729
- Exhibit D: Submitted Public Comment

EXHIBIT B

[Planning Code, Zoning Map - Rezone Designated RM-2 Parcel]

Ordinance amending the Planning Code and Zoning Map to rezone Assessor's Parcel Block No. 0976, Lot No. 001, located in the Residential Mixed, Moderate Density (RM-2) District to permit use for up to 47 Tourist Hotel Rooms; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Environmental and Planning Code Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 230058 and is incorporated herein by reference. The Board affirms this determination.

(b) On _____, the Planning Commission, in Resolution No. _____, recommended the Planning Code and Zoning Map amendments in this ordinance for approval and adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section

1 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with
2 the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by
3 reference.

4 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that the
5 Planning Code and Zoning Map amendments in this ordinance will serve the public necessity,
6 convenience, and welfare for the reasons set forth in Planning Commission Resolution No.
7 _____, and the Board incorporates such reasons herein by reference.

8
9 Section 2. General Findings.

10 (1) The Residential Hotel Unit Conversion and Demolition Ordinance was enacted
11 in 1990 as Chapter 41 of the Administrative Code ("Chapter 41"). The stated purpose of
12 Chapter 41 was "to benefit the general public by minimizing adverse impact on the housing
13 supply and on displaced low-income, elderly, and disabled persons resulting from the loss of
14 residential hotel units through their conversion and demolition."

15 (2) Section 41.3 of the Administrative Code includes the following findings:

16 (a) There is a severe shortage of decent, safe, sanitary and affordable rental
17 housing in the City and County of San Francisco and this shortage affects most severely the
18 elderly, the disabled and low-income persons.

19 (b) The people of the City and County of San Francisco, cognizant of the
20 housing shortage of San Francisco, on November 4, 1980, adopted a declaration of policy to
21 increase the city's housing supply by 20,000 units.

22 (c) Many of the elderly, disabled and low-income persons and households
23 reside in residential hotel units.

24 (d) A study prepared by the Department of City Planning estimated that there
25 were only 26,884 residential hotel units in the City in December of 1979, a decrease of 6,098

1 such units from 1975. Since enactment of this Chapter, residential hotel units have continued
2 to decrease, at a slower rate: in 1981, there were 20,466 residential hotel units as defined by
3 this Chapter; in 1988, there were 18,723 residential hotel units, a decrease of 1,743 over a
4 period of years. The decrease is caused by vacation, conversion or demolition of residential
5 hotel units. Continued vacation, conversion or demolition of residential hotel units will
6 aggravate the existing shortage of affordable, safe and sanitary housing in the City and
7 County of San Francisco.

8 (e) As a result of the removal of residential hotel units from the rental housing
9 market, a housing emergency exists within the City and County of San Francisco for its
10 elderly, disabled and low-income households.

11 (f) Residential hotel units are endangered housing resources and must be
12 protected.

13 (g) The Board of Supervisors and the Mayor of the City and County of San
14 Francisco recognized this housing emergency and enacted an ordinance which established a
15 moratorium on the demolition or conversion of residential hotel units to any other use. The
16 moratorium ordinance became effective on November 21, 1979.

17 (h) The conversion of residential hotel units affects those persons who are
18 least able to cope with displacement in San Francisco's housing market.

19 (3) Pursuant to Sections 41.12 and 41.13 of the Administrative Code, the owner or
20 operator of a residential hotel within Chapter 41's scope may apply to convert or demolish one
21 or more residential units by providing for a one-to-one replacement of the unit(s) by one of the
22 methods set forth in Section 41.13.

23 (4) Since its enactment in 1990, provisions of the Residential Hotel Unit Conversion
24 and Demolition Ordinance have been amended from time to time to ensure that its provisions
25 continue to align with its original intent (a) to preserve affordable rental housing for elderly,

disabled, and low-income persons and households who are least able to cope with displacement and (b) to require a one-for-one replacement of these residential units if the hotel owner or operator is allowed to convert or demolish them.

(5) This ordinance contemplates that there are a limited number of existing hotels in the City that are subject to Administrative Code Chapter 41 but were built by design to be hotels with high-end services and have never been affordable rental housing. This ordinance provides an alternative means to benefit San Francisco’s low-income, elderly and formerly houseless citizens without having an adverse impact on the City’s supply of affordable rental housing that the Residential Hotel Unit Conversion and Demolition Ordinance was intended to address.

Section 3. The Planning Code is hereby amended by revising Section 209.2, to read as follows:

SEC. 209.2. RM (RESIDENTIAL, MIXED) DISTRICTS.

* * * *

**Table 209.2
ZONING CONTROL TABLE FOR RM DISTRICTS**

Zoning Category	§ References	RM-1	RM-2	RM-3	RM-4
* * * *					
NON-RESIDENTIAL STANDARDS AND USES					
* * * *					
Sales and Service Category					
Retail Sales and Service Uses*	§ 102	NP	NP	NP	NP
Hotel	§ 102	C(4)	C(4)	C(4)	C(4)
* * * *	* * * *	* * * *			

* Not listed below.

* * * *

(4) C for 5 or fewer guest rooms or suites of rooms; NP for 6 or more guest rooms; provided, however, that a total of up to 47 Tourist Hotel rooms are Principally Permitted on Block 0976, Lot 001, subject to the provisions of Ordinance No. 251-22.

Section 4. This ordinance shall have no retroactive effect and does not forgive or waive enforcement of any violations that occurred prior to the ordinance's effective date.

Section 5. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ KRISTEN A. JENSEN
KRISTEN A. JENSEN
Deputy City Attorney

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EXHIBIT C

[Settlement of Lawsuit - Phi Associates (Drisco Hotel to Make Payments Totaling \$2,500,000 to Benefit the Swords to Plowshares Veterans Academy)]

Ordinance authorizing settlement of the lawsuit filed by Phi Associates L.P., against the City and County of San Francisco payments by Phi Associates of \$2,500,000 to provide construction loan repayment, and fund capital improvements and operating reserves, and thereby support affordable housing for veterans at the Veterans Academy located at 1030 Girard Road, San Francisco, and operated by Swords To Plowshares ("Veterans Academy") in exchange for the release of 16 Residential Hotel rooms from the Hotel Conversion Ordinance; the lawsuit was filed on March 17, 2021 in San Francisco Superior Court, Case No. CPF-21-517409, entitled Phi Assoc., L.P. v. City and County of San Francisco; the lawsuit involves petitioner's challenge to the City's enforcement of the Hotel Conversion Ordinance to the Hotel Drisco, located at 2901 Pacific Avenue, San Francisco.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Pursuant to Charter Section 6.102(5), the Board of Supervisors hereby authorizes the City Attorney to settle the action entitled, Phi Assoc., L.P. v. City and County of San Francisco, San Francisco Superior Court, Case No. CPF-21-517409 by the payment of \$2,000,000 by Phi Associates. L.P. to the Bank of San Francisco (the "First Settlement Payment") for the benefit of the City, and a payment of \$500,000 to be applied towards capital improvements and operating reserves for the benefit of the tenants of the Veterans Academy (the "Second Settlement Payment" and, together with the First Settlement Payment, the "Settlement Payments"). The Hotel Owner will instruct the Bank of San Francisco to apply the First Settlement Payment to repayment of a loan obtained by Swords to Plowshares for

1 mobility improvements to the Veterans Academy, its affordable housing facility for very low-
2 income veterans located at 1030 Girard Road, San Francisco, and operated by Swords To
3 Plowshares ("Veterans Academy"). Veterans Academy is located approximately 1 mile from
4 the Drisco Hotel. The Settlement Agreement also requires Swords to Plowshares to negotiate
5 with its current landlord, the Presidio Trust, to extend the term of its existing lease for the
6 Veterans Academy and execute an affordable housing agreement with the City related to
7 Swords to Plowshares' use of the Settlement Payments to benefit the Veterans Academy and
8 a Promissory Note governing the First Settlement Payment. Petitioner's payment of the
9 \$2,500,000 is contingent upon the approval by the Planning Commission and the Board of
10 Supervisors of legislation releasing the Drisco Hotel from the restrictions of the Hotel
11 Conversion Ordinance.

12 Section 2. The above-named action was filed in San Francisco Superior Court on
13 March 17, 2021, and the following parties were named in the Lawsuit: Phi Associates, L.P.;
14 City and County of San Francisco.

15 Section 3. The Board of Supervisors authorizes the City Attorney's Office to take all
16 actions reasonably necessary to perform the City's obligations under the Settlement
17 Agreement.

18
19 APPROVED AS TO FORM AND
20 RECOMMENDED:

21 DAVID CHIU
22 City Attorney

RECOMMENDED:

23 /s/ _____
24 Patrick O'Riordan
25 Director of Department of Building Inspection

26 /S/ AUSTIN M. YANG
27 AUSTIN M. YANG
28 Chief Land Use Deputy

29 n:\land\li2022\210302\01636866.docx



City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 220729

Date Passed: December 06, 2022

Ordinance authorizing settlement of the lawsuit filed by Phi Associates L.P., against the City and County of San Francisco for payments by Phi Associates of \$2,500,000 to provide construction loan repayment, and fund capital improvements and operating reserves, and thereby support affordable housing for veterans at the Veterans Academy located at 1030 Girard Road, San Francisco, operated by Swords to Plowshares ("Veterans Academy"), in exchange for the release of 16 Residential Hotel rooms from regulation under the Hotel Conversion Ordinance; the lawsuit was filed on March 17, 2021, in San Francisco Superior Court, Case No. CPF-21-517409, entitled Phi Assoc., L.P. v. City and County of San Francisco; the lawsuit involves petitioner's challenge to the City's enforcement of the Hotel Conversion Ordinance at the Drisco Hotel, located at 2901 Pacific Avenue, San Francisco.

October 20, 2022 Government Audit and Oversight Committee - CONTINUED

November 03, 2022 Government Audit and Oversight Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

November 03, 2022 Government Audit and Oversight Committee - CONTINUED AS AMENDED

November 17, 2022 Government Audit and Oversight Committee - RECOMMENDED

November 29, 2022 Board of Supervisors - PASSED ON FIRST READING

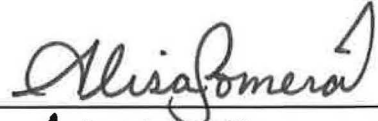
Ayes: 11 - Chan, Dorsey, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

December 06, 2022 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Chan, Dorsey, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 220729

I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
12/6/2022 by the Board of Supervisors of the
City and County of San Francisco.



f Angela Calvillo
Clerk of the Board



London N. Breed
Mayor

12/14/22

Date Approved

March 14, 2023

Tuija Catalano
tcatalano@reubenlaw.com

Delivered Electronically

President Rachel Tanner
Planning Commission
49 S. Van Ness Avenue
San Francisco, CA 94103

Re: Rezone Designated RM-2 Parcel at 2901 Pacific Avenue (0976/001)
Planning Dept. Case No. 2023-001349PCA
Board of Supervisors File No. 230058
Brief in Support of the Proposed Legislation
Hearing Date: March 23, 2023
Our File No.: 11074.01

Dear President Tanner and Commissioners:

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. The 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 has already been approved by the Board of Supervisors (“**BOS**”) on December 6, 2022, and by the Mayor on December 16, 2022, under Ordinance No. 251-22 that became effective on January 18, 2023.

For the past few years, the Property Owner has worked closely with the City Attorney’s Office and Supervisor Catherine Stefani’s Office to arrive at a resolution that is, partly, implemented with the Legislation, and we look forward to completing these final steps that were part of the prior BOS settlement approval. We ask for your support in recommending approval of the Legislation, as proposed, to the BOS’ Land Use and Transportation Committee.

The Pacific Heights Property is 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. The lawsuit was settled between the Property Owner and the City in late 2022, and the terms of the settlement were approved unanimously with a 11-0 vote by the BOS on December 6, 2022 (“**Settlement**”).

San Francisco Office
One Bush Street, Suite 600, San Francisco, CA 94104
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Oakland Office
456 8th Street, 2nd Floor, Oakland, CA 94607
tel: 510-257-5589

www.reubenlaw.com

As part of the Settlement, the Property owner will pay \$2.5M to provide for the construction loan repayment and funding of capital improvements and operating reserves to the Veterans Academy located at 1030 Girard Road, San Francisco. The Veterans Academy is operated by Swords to Plowshares and has provided permanent, supportive housing to formerly homeless veterans with disabilities 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 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 rezoning under the Legislation before you on March 23, 2023 is the second, but required, step in the Settlement process. Without the rezoning that is proposed in the 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 payment provided for in the Settlement.

Importantly, the Legislation does not rezone the entire Property. In fact, the Legislation does not even change the operation or character of the Property in any way that deviates from its current and/or historical use. The BOS approved correction of the original characterization of the Property as a mix of residential and tourist hotels will, on paper, result in an increase in the number of tourist hotel rooms, but in practice there is no change. However, since the 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 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: Vice President Kathrin Moore
Commissioner Derek Braun
Commissioner Sue Diamond
Commissioner Theresa Imperial
Commissioner Joel Koppel
Commissioner Gabriella Ruiz
Jonas Ionin, Commission Secretary
Rich Hillis, Planning Director
Audrey Merlone, Planning Staff
Tom Callinan, Property Owner
Boe Hayward, Consultant

BOARD of SUPERVISORS



City Hall
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San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: January 27, 2023
To: Planning Department / Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 230058
Planning Code, Zoning Map - Rezone Designated RM-2 Parcel

- ☒ California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - ☒ Ordinance / Resolution
 - ☐ Ballot Measure
- ☒ Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - ☐ General Plan
 - ☒ Planning Code, Section 101.1
 - ☒ Planning Code, Section 302
- ☐ Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- ☐ General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- ☐ Historic Preservation Commission
 - ☐ Landmark (*Planning Code, Section 1004.3*)
 - ☐ Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - ☐ Mills Act Contract (*Government Code, Section 50280*)
 - ☐ Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

03/02/2023

A handwritten signature in black ink, appearing to be "Erica Major", written over the date.

BOARD of SUPERVISORS



City Hall
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 - ☐ Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.

[Planning Code, Zoning Map - Rezone Designated RM-2 Parcel]

Ordinance amending the Planning Code and Zoning Map to rezone Assessor's Parcel Block No. 0976, Lot No. 001, located in the Residential Mixed, Moderate Density (RM-2) District to permit use for up to 47 Tourist Hotel Rooms; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

NOTE: **Unchanged Code text and uncoded text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *~~strikethrough italics Times New Roman font~~*.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Environmental and Planning Code Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference. The Board affirms this determination.

(b) On _____, the Planning Commission, in Resolution No. _____, recommended the Planning Code and Zoning Map amendments in this ordinance for approval and adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section

1 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with
2 the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by
3 reference.

4 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that the
5 Planning Code and Zoning Map amendments in this ordinance will serve the public necessity,
6 convenience, and welfare for the reasons set forth in Planning Commission Resolution No.
7 _____, and the Board incorporates such reasons herein by reference.

8
9 Section 2. General Findings.

10 (1) The Residential Hotel Unit Conversion and Demolition Ordinance was enacted
11 in 1990 as Chapter 41 of the Administrative Code ("Chapter 41"). The stated purpose of
12 Chapter 41 was "to benefit the general public by minimizing adverse impact on the housing
13 supply and on displaced low-income, elderly, and disabled persons resulting from the loss of
14 residential hotel units through their conversion and demolition."

15 (2) Section 41.3 of the Administrative Code includes the following findings:

16 (a) There is a severe shortage of decent, safe, sanitary and affordable rental
17 housing in the City and County of San Francisco and this shortage affects most severely the
18 elderly, the disabled and low-income persons.

19 (b) The people of the City and County of San Francisco, cognizant of the
20 housing shortage of San Francisco, on November 4, 1980, adopted a declaration of policy to
21 increase the city's housing supply by 20,000 units.

22 (c) Many of the elderly, disabled and low-income persons and households
23 reside in residential hotel units.

24 (d) A study prepared by the Department of City Planning estimated that there
25 were only 26,884 residential hotel units in the City in December of 1979, a decrease of 6,098

1 such units from 1975. Since enactment of this Chapter, residential hotel units have continued
2 to decrease, at a slower rate: in 1981, there were 20,466 residential hotel units as defined by
3 this Chapter; in 1988, there were 18,723 residential hotel units, a decrease of 1,743 over a
4 period of years. The decrease is caused by vacation, conversion or demolition of residential
5 hotel units. Continued vacation, conversion or demolition of residential hotel units will
6 aggravate the existing shortage of affordable, safe and sanitary housing in the City and
7 County of San Francisco.

8 (e) As a result of the removal of residential hotel units from the rental housing
9 market, a housing emergency exists within the City and County of San Francisco for its
10 elderly, disabled and low-income households.

11 (f) Residential hotel units are endangered housing resources and must be
12 protected.

13 (g) The Board of Supervisors and the Mayor of the City and County of San
14 Francisco recognized this housing emergency and enacted an ordinance which established a
15 moratorium on the demolition or conversion of residential hotel units to any other use. The
16 moratorium ordinance became effective on November 21, 1979.

17 (h) The conversion of residential hotel units affects those persons who are
18 least able to cope with displacement in San Francisco's housing market.

19 (3) Pursuant to Sections 41.12 and 41.13 of the Administrative Code, the owner or
20 operator of a residential hotel within Chapter 41's scope may apply to convert or demolish one
21 or more residential units by providing for a one-to-one replacement of the unit(s) by one of the
22 methods set forth in Section 41.13.

23 (4) Since its enactment in 1990, provisions of the Residential Hotel Unit Conversion
24 and Demolition Ordinance have been amended from time to time to ensure that its provisions
25 continue to align with its original intent (a) to preserve affordable rental housing for elderly,

disabled, and low-income persons and households who are least able to cope with displacement and (b) to require a one-for-one replacement of these residential units if the hotel owner or operator is allowed to convert or demolish them.

(5) This ordinance contemplates that there are a limited number of existing hotels in the City that are subject to Administrative Code Chapter 41 but were built by design to be hotels with high-end services and have never been affordable rental housing. This ordinance provides an alternative means to benefit San Francisco’s low-income, elderly and formerly houseless citizens without having an adverse impact on the City’s supply of affordable rental housing that the Residential Hotel Unit Conversion and Demolition Ordinance was intended to address.

Section 3. The Planning Code is hereby amended by revising Section 209.2, to read as follows:

SEC. 209.2. RM (RESIDENTIAL, MIXED) DISTRICTS.

* * * *

**Table 209.2
ZONING CONTROL TABLE FOR RM DISTRICTS**

Zoning Category	§ References	RM-1	RM-2	RM-3	RM-4
* * * *					
NON-RESIDENTIAL STANDARDS AND USES					
* * * *					
Sales and Service Category					
Retail Sales and Service Uses*	§ 102	NP	NP	NP	NP
Hotel	§ 102	C(4)	C(4)	C(4)	C(4)
* * * *	* * * *	* * * *			

* Not listed below.

* * * *

(4) C for 5 or fewer guest rooms or suites of rooms; NP for 6 or more guest rooms; provided, however, that a total of up to 47 Tourist Hotel rooms are Principally Permitted on Block 0976, Lot 001, subject to the provisions of Ordinance No. 251-22.

Section 4. This ordinance shall have no retroactive effect and does not forgive or waive enforcement of any violations that occurred prior to the ordinance's effective date.

Section 5. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ KRISTEN A. JENSEN
KRISTEN A. JENSEN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code, Zoning Map - Rezone Designated RM-2 Parcel]

Ordinance amending the Planning Code and Zoning Map to rezone Assessor's Parcel Block No. 0976, Lot No. 001, located in the Residential Mixed, Moderate Density (RM-2) District to permit use for up to 47 Tourist Hotel Rooms; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

The Planning Code and Zoning Map limit the uses, height and bulk of buildings in the City.

Amendments to Current Law

This legislation would rezone Block 0976, Lot 001 located in the RM-2 District to permit use for up to 47 Tourist Hotel Rooms as a principally permitted use.

Background Information

This legislation is proposed in connection with and as a requirement of a settlement of litigation brought by the owner of the hotel located on Block 0976, Lot 001 challenging San Francisco's enforcement of the Hotel Conversion Ordinance. Under the terms of that settlement, the owner has agreed to make various payments to support the Veterans' Academy, a permanent supportive housing program for very low-income veterans operated by Swords to Plowshares. The terms of the settlement are described further in Board File No. 220729.

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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

NOTICE OF PUBLIC HEARING
LAND USE AND TRANSPORTATION COMMITTEE
BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee of the City and County of San Francisco will hold a public hearing to consider the following hearing matter and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: April 24, 2023

Time: 1:30 p.m.

Location: **IN-PERSON MEETING INFORMATION**
Legislative Chamber, Room 250, located at City Hall
1 Dr. Carlton B. Goodlett Place, San Francisco. CA

REMOTE ACCESS

Watch: www.sfgovtv.org

Watch: SF Cable Channel 26, 28, 78, or 99 (*depending on your provider*) once the meeting starts, the telephone number and Meeting ID will be displayed on the screen.

Public Comment Call-In: <https://sfbos.org/remote-meeting-call>

Subject: **File No. 230058.** Ordinance amending the Planning Code and Zoning Map to rezone Assessor's Parcel Block No. 0976, Lot No. 001, located in the Residential Mixed, Moderate Density (RM-2) District to permit use for up to 47 Tourist Hotel Rooms; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

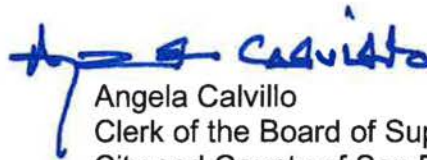
In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments prior to the time the hearing begins. These comments will be made as part of the official public record in this matter and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA, 94102 or sent via email (board.of.supervisors@sfgov.org).

Information relating to this matter is available in the Office of the Clerk of the Board or the Board of Supervisors' Legislative Research Center (<https://sfbos.org/legislative-research-center-lrc>). Agenda information relating to this matter will be available for public review on Friday, April 21, 2023.

For any questions about this hearing, please contact the Assistant Clerk for the Land Use and Transportation Committee:

Erica Major (Erica.Major@sfgov.org) ~ (415) 554-4441)

Please Note: *The Department is open for business, but employees are working from home. Please allow 24 hours for us to return your call or email.*



Angela Calvillo
Clerk of the Board of Supervisors
City and County of San Francisco

em:sc:ams

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SAN FRANCISCO, CA 94102

COPY OF NOTICE

Notice Type: GPN GOVT PUBLIC NOTICE

Ad Description

EDM 04.17.2023 Land Use Agenda - 230058 Zoning Map (Stefani)

To the right is a copy of the notice you sent to us for publication in the SAN FRANCISCO EXAMINER. Thank you for using our newspaper. Please read this notice carefully and call us with ny corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

04/14/2023

The charge(s) for this order is as follows. An invoice will be sent after the last date of publication. If you prepaid this order in full, you will not receive an invoice.

Publication	\$370.87
Total	\$370.87

EXM# 3686621

NOTICE OF PUBLIC HEARING SAN FRANCISCO BOARD OF SUPERVISORS LAND USE AND TRANS- PORTATION COMMITTEE MONDAY, APRIL 24 - 1:30 PM

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee of the City and County of San Francisco will hold a public hearing to consider the following hearing matter and said public hearing will be held as follows, at which time all interested parties may attend and be heard: File No. 230058. Ordinance amending the Planning Code and Zoning Map to rezone Assessor's Parcel Block No. 0976, Lot No. 001, located in the Residential Mixed, Moderate Density (RM-2) District to permit use for up to 47 Tourist Hotel Rooms; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302. Location: IN-PERSON MEETING INFORMATION Legislative Chamber, Room 250, located at City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. REMOTE ACCESS

Watch: www.sfgovtv.org
Watch: SF Cable Channel 26, 28, 78, or 99 (depending on your provider) once the meeting starts, the telephone number and Meeting ID will be displayed on the screen. Public Comment Call-In: <https://sfbos.org/remote-meeting-call>. In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments prior to the time the hearing begins. These comments will be made as part of the official public record in this matter and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA, 94102 or sent via email (board.of.supervisors@sfgov.org). Information relating to this matter is available in the Office of the Clerk of the Board or the Board of Supervisors' Legislative Research Center (<https://sfbos.org/legislative-research-center-lrc>). Agenda information relating to this matter will be available for public review on Friday, April 21, 2023. For any questions about this hearing, please contact the Assistant Clerk for the Land Use and Transportation Committee: Erica Major (Erica.Major@sfgov.org ~ (415) 554-4441). Please Note: The Department is open for business, but employees may be working from home. Please allow 24 hours for us to return your call or email.

research-center-lrc). Agenda information relating to this matter will be available for public review on Friday, April 21, 2023. For any questions about this hearing, please contact the Assistant Clerk for the Land Use and Transportation Committee: Erica Major (Erica.Major@sfgov.org ~ (415) 554-4441). Please Note: The Department is open for business, but employees may be working from home. Please allow 24 hours for us to return your call or email.

EXM-3686621#



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REUBEN, JUNIUS & ROSE, LLP

April 19, 2023

Tuija Catalano
tcatalano@reubenlaw.com

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 24th. 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

San Francisco Office
One Bush Street, Suite 600, San Francisco, CA 94104
tel: 415-567-9000 | fax: 415-399-9480

Oakland Office
456 8th Street, 2nd Floor, Oakland, CA 94607
tel: 510-257-5589

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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.

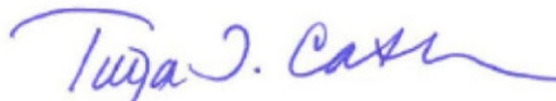
The Property that is the subject to the pending Legislation is a Pacific Heights Property improved with a 4-story building constructed in 1903 that has been used as a hotel since 1925, currently as the Hotel Drisco. The Property was incorrectly categorized as a mix of residential and tourist hotel rooms 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