

OVERLAY 19
(RZ 8863)

ORDINANCE NO. 1674

AN ORDINANCE REZONING CERTAIN PROPERTY WITHIN THE CITY OF WALNUT CREEK BY ADDING THERETO AN OVERLAY ZONE, PERMITTING A BED AND BREAKFAST USE SUBJECT TO CERTAIN CONDITIONS (1056 Hacienda Drive)

The City Council of the City of Walnut Creek does ordain as follows:

Section 1. Findings.

1. On January 22, 1987, Michael and Sharyn McCoy filed Re-zoning Application No. 8863, which requested the addition of an overlay zone on the property located at 1056 Hacienda Drive (the "Property") for the purpose of allowing the existing historically significant residence to be converted to a combined bed and breakfast inn and private residence.

2. The land use element of the General Plan designates this site as residential, 2.5 to 4.0 units per acre. The property is zoned R-20 (Single Family Residential District).

3. The General Plan contains an historical/cultural/architectural preservation policy which provides for non-residential uses in residential districts, by means of an overlay zone, if the building was constructed prior to January 1, 1940.

4. The General Plan permits the adoption of an overlay zone under that policy to allow a non-residential use if all of the following findings can be made:

a. That the non-residential use would not detract from the surrounding, existing or future residences.

b. That the proposed non-residential use would provide a use desired by the residents in the neighborhood as determined by the City on a case by case basis.

c. That the use must be located at the edge of the residential community and/or on a major traffic artery or such that it will not break up the continuity of the neighborhood.

d. That the proposed non-residential use would not lead to additional requests resulting in negative cumulative effects to the residential character of the area.

e. That the proposed use will provide a better alternative to the more intense use permitted by the underlying zoning.

f. That the public necessity, convenience and general welfare require the proposed change in zoning.

5. A negative declaration was posted for this project on April 19, 1987, the Community Development Director having found that, as mitigated, no substantial adverse impacts will occur as a result of this project.

6. On May 28, 1987, the Walnut Creek Planning Commission held a public hearing to consider Rezoning Application No. 8863. At that time, written and oral testimony was accepted.

7. Following the hearing, the Commission adopted Resolution No. 2459 which recommended, among other things, that the City Council approve an overlay zone for the operation of a bed and breakfast inn, subject to specified conditions.

8. On July 21, 1987, this Council held a public hearing on Rezoning Application No. 8863. At that time, oral and written testimony was presented.

9. Based upon the evidence presented at the public hearing, this Council finds that the General Plan policies for consideration of a non-residential use on the Property have been satisfied. Specifically:

a. The City Council finds that the building on the property located at 1056 Hacienda Drive was constructed prior to January 1, 1940. The 25-room, 8,000 square foot house was built by the Rice family in the mid- to late 1800's, is situated on an odd-shaped, 3+ acre site, and is listed on the historic resources inventory list prepared in 1976 by the Contra Costa Planning Department in cooperation with the Walnut Creek Historical Society.

b. The non-residential bed and breakfast use would not detract from the surrounding or existing future residences. The site will remain virtually the same as presently viewed from Hacienda Drive. A limit on the number of rooms devoted to bed and breakfast use, and other conditions which limit the number of special events held on the Property, prohibit large gatherings and require that guests use on-site parking, insure that this use will not detract from surrounding residences. These conditions are set forth in detail in Section 2, below.

c. The proposed non-residential, bed and breakfast use will provide a use desired by the residents in the neighborhood. Testimony on whether and to what extent residents desire the proposed bed and breakfast use was conflicting. Some residents were opposed to the use, others spoke in favor. The Council finds that the purpose behind this required finding is to insure that the non-residential use will be compatible with those persons who will be most directly affected. In this case, the testimony indicates that the residents most likely to be affected by a non-residential use are those closest to the property. Therefore, the Council finds that these residents should be considered, and are considered, as the "residents in the neighborhood" for the purpose of making this finding. Residents who live farther away from the property are unlikely to be

affected by the change from residential to non-residential use. In this case, a majority of the property owners located immediately adjacent to the property are in favor of operating the home as a bed and breakfast inn. Therefore, this Council finds that the proposed non-residential use is desired by the residents in the neighborhood.

d. The proposed non-residential use is so located that it will not break up the continuity of the neighborhood. Visually, the property will remain virtually the same as it is presently viewed from Hacienda Drive. The location of this property at a bend in Hacienda Drive, the setback of the existing structures, and the steep terrain at the rear of the property also insure that this use will not break up the continuity of the neighborhood.

e. The proposed non-residential use will not lead to additional requests resulting in a negative cumulative impact to the residential character of the area. The house on this property is the only house in the area that was built prior to January 1, 1940. Therefore, under the existing General Plan policies, it is the only property in the area which qualifies for a non-residential use under the historical/cultural/architectural preservation policy.

f. The proposed use will provide a better alternative to the more intense use permitted by the underlying zoning. The underlying zoning could result in a subdivision of a maximum of five single-family lots, which would generate more traffic and more storm runoff than the non-residential use, and would detract from the visual character and ambiance of the neighborhood.

g. The public necessity, convenience and general welfare require the proposed change in zoning. The Council finds that allowing a bed and breakfast inn on the property will permit the preservation and renovation of this historically and culturally significant home, will create a desirable, non-intrusive use for the property and will provide a more attractive alternative to the more intense use permitted by the underlying zoning.

10. Based on the evidence presented to this City Council, the City Council certifies that the negative declaration has been prepared in compliance with CEQA, its State and City Guidelines and that it has reviewed and considered the information contained therein.

Section 2. Decision.

Based on the findings set forth above, the subject Property described in Exhibit A, attached hereto and incorporated herein by this reference, is hereby rezoned by adding thereto Overlay Zone, to allow the Property's use as a bed and breakfast inn subject to the following conditions:

1. The property may be developed under R-20 zoning standards and procedures or may be developed and operated as a bed and breakfast inn, but not both. The following conditions shall apply if developed and operated as a bed and breakfast inn.

2. Permitted uses. The permitted uses under this overlay zone shall be limited to the following:

a. A Bed and Breakfast Inn and one private residence for the inn owner or manager, all contained within the existing historic structure. The number of guest rooms available for rent shall not exceed ten (10) in total, and shall be staged as follows: Only seven (7) rooms shall be available for guests for the first year in which the inn operates; on the first anniversary of its operation, three additional rooms may be made available for guests. For the purposes of this ordinance, a "Bed and Breakfast Inn" is hereby defined as a dwelling wherein private overnight lodging is provided to guests, for consideration, for a period of 30 consecutive days or less.

b. The preparation and service of breakfast to guests of the Bed and Breakfast Inn, provided that no midday or evening meals shall be served to guests and no meals shall be served to the public.

c. Parking for guests of the Bed and Breakfast Inn and for the Inn owner or manager in accordance with Paragraph 5b, below.

3. Conditionally permitted uses. Special Events shall be a conditionally permitted use subject to the conditions and limitations set forth in this paragraph. The term "Special Event" shall mean the use of the property, or any portion thereof, for consideration, by any person or persons who are not guests of the Inn. Examples of a Special Event include, but are not limited to, benefits for nonprofit organizations, weddings and wedding receptions, and business meetings and conferences. A "Weekend Special Event" is any Special Event held on a Saturday or Sunday. Attendance at a Weekend Special Event shall not exceed 60 persons, and shall end at or before 10 p.m. A "Weekday Special Event" is any Special Event held on a weekday. The number of persons permitted to attend any Weekday Special Event shall be determined by the number of guests registered at the Inn on the night before and the night after the Special Event is held: In no case shall the combined number of guests and participants in the Special Event exceed 20 persons. Weekday Special Events may only be held between the hours of 8 a.m. and 5 p.m. Any Special Event that generates vehicles that cannot be accommodated in the approved on-site parking area is prohibited.

a. From January 1, 1988 to December 31, 1988, the Property may be used for up to twelve Weekend Special Events, with no more than two such Events held in any month. From January 1, 1989 to the date specified in subparagraph c, the Property may be used for up to eight Weekend Special Events, with no more than two such Events held in any month.

b. From January 1, 1988 to the date specified in subparagraph c, the Property may be used for Weekday Special Events.

c. On the date that 10 rooms in the Bed and Breakfast Inn are made available to the public, or January 1, 1990, whichever occurs first, no Weekend or Weekday Special Event may be held on the Property unless the Property owner has first obtained a minor use permit that would allow the continuation of Special Events. In acting upon an application for a conditional use permit, the Zoning Administrator shall follow the standards set forth in Section 10-2.2223 of the Walnut Creek Municipal Code, or the successor of that section. The Zoning Administrator is specifically empowered to permit, conditionally permit or to prohibit Special Events; provided, however, that in no case shall the number of Special Events permitted exceed the number permitted by subparagraphs a and b for 1989.

d. No buses or vans shall be used to shuttle guests to Special Events. Any Special Event that would generate vehicles that cannot be accommodated in the approved on-site parking area is prohibited.

4. Uses not permitted. No use shall be made of the property other than those specifically authorized in paragraphs 2 and 3, above, and all other uses are expressly prohibited.

5. Property development standards.

a. The property shall be maintained substantially as shown on the approved site plan, labeled "Exhibit A of Rezoning Application No. 8863," which is incorporated herein by this reference as though set forth at this point. No additions to the existing historic structure shall be permitted. Structures for storage of vehicles or landscape materials, and structures intended to enhance usable outdoor areas shall be permitted, upon Design Review Commission approval to assure architectural compatibility with the existing historic structure. No new structures intended for human habitation shall be permitted.

b. All parking for guests of the Bed and Breakfast Inn and special events shall be located west of the house in the parking area shown on the approved site plan. Parking for the use of the residents and the residents' private guests can be accommodated in the parking area south of the house as shown on the site plan. The west lot shall have a permeable surface. No on-street parking shall be permitted.

c. On-site lighting of the building and site shall be designed such that it will not create glare on adjacent properties and the light source shall be shielded from direct off-site viewing.

d. The property may be identified as a Bed and Breakfast Inn by an unobtrusive non-illuminated plaque, not to exceed six square feet mounted on the entry column or gate. The sign copy shall be limited to the name of the inn, mention of its historical significance and/or the address of the property. The specific design and location of the sign shall be approved by the Chief of Planning.

e. The Inn shall not use any external paging or bell systems.

6. Other conditions.

a. The following requirements shall be met prior to use of the property as a Bed and Breakfast Inn, unless the terms provide for satisfaction of the requirements at a later date:

(1) Brush and debris shall be removed and the spillway channel repaired on site to the satisfaction of the City Engineer. The channel shall be cleared of brush and debris on an on-going basis. Discharge of waste water into the ditch shall be corrected.

(2) At such time as a drainage project has been funded and approved by the Contra Costa County Flood Control District and/or the City, the property owner shall grant a 15-foot wide storm drain easement for line E of County Service Area D-2 to the City of Walnut Creek. The easement shall extend from Hacienda Drive right-of-way line to the dam spillway located at the rear of the site, the exact location to be approved by the City Engineer upon recommendation by the Flood Control District and with the approval of the property owner, which the property owner shall not unreasonably withhold. This easement shall convey reasonable rights of access to the City and its assigns for maintenance of said Line E. However, the property owner shall at all times retain the right to use the surface of the easement property except during construction, for such purposes as are authorized by these conditions, including, but not limited to, landscaping, vehicle parking, walkways, as well as other reasonable garden amenities.

(3) At the same time the storm drain easement is granted as required by subparagraph (2) above, the property owner shall grant an additional 20-foot wide temporary access and construction easement contiguous to the 15-foot wide drainage easement noted above to the City of Walnut Creek for access and use to install Line E.

(4) The granting of said temporary access and construction easement shall be conditional upon the City, or its assigns, agreeing to return the surface condition of the owner's property, including the surface of the drainage easement, the construction easement and adjoining areas affected by the construction to a condition equal to the pre-construction-

condition of said affected property, at no cost to the property owner. This condition applies only to presently existing landscape material, paving and improvements.

(5) The granting of said temporary access and construction easement shall be further conditioned upon the City, or its assigns, agreeing to make all reasonable efforts in the design, planning and construction of the drainage line so as to minimally inconvenience the business operations of the property owner, and to the extent such construction forces closure of the property owner's Inn, or a portion thereof, such business losses to the property owners as they may be incurred, if proved, will be reimbursed to the property owner. During the construction period only, the City may allow exceptions to the on-site parking requirements set forth above.

(6) As part of the easement documents noted in subparagraphs (2) and (3) above, the owner shall execute and record an agreement as part of the property title stating that owner and future owners agree to have Line E storm drain installed on the site as planned.

(7) The owner shall pay the adopted drainage fee of \$2,677.00/acre for Drainage District D-2 as provided for by City Ordinance.

(8) Upon demand by the City Engineer, the property owner shall widen the pavement around the curve in front of the project site and, stripe the repaved portion for two-way traffic and a pedestrian path. This work shall be performed at the expense of the property owner, to a maximum of \$8,000.

b. Guests shall not be permitted to bring pets onto the property.

c. Literature showing directions for reaching the Bed and Breakfast Inn will clearly and positively direct guests to use only the northern portion of Hacienda Drive, Homestead and Ygnacio Valley Boulevard for arrival and departure.

Section 3. Effective Date.

This ordinance shall take effect thirty (30) days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Walnut Creek at an adjourned regular meeting thereof held on the 27th day of October, 1987, by the following called vote:

AYES: Councilmembers: Lucas, Murray, Mayor Hall

NOES: Councilmembers: Munn, Skoog

ABSENT: Councilmembers: None

/s/ Merle D. Hall

Mayor of the City of Walnut Creek

ATTEST:—

/s/ Barbara M. Rivara
City Clerk of the City of Walnut Creek

I HEREBY CERTIFY that the foregoing ordinance was duly and regularly passed and adopted by the City Council of the City of Walnut Creek, County of Contra Costa, State of California at an adjourned regular meeting of said Council held on the 27th day of October, 1987.

City Clerk of the City of Walnut Creek