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New winemaker regulations get final planning commission review

By Sophie Braccini

The problem is simple to state: regulating commercial wineries is about balancing the needs of light industrial operations in residential districts with the neighbors' rights and concerns. But it took four hours for the planning commission to reach a consensus, after years of study and outreach, because the questions raised are complex and somewhat ambiguous, according to the commissioners. Throughout the discussion, commissioners questioned the fairness of creating rules that would apply to winemakers only, and would be different from what is asked of other residents or groups.

The neighbors of the few commercial wineries in town have engaged in the regulation process and their concerns center mostly around traffic and parking, noise, and pesticide use. The commission reviewed a proposed regulation addressing only commercial winemakers, not residents making wine for their own use, or grape growing, however large it might be. Staff noted that the vast majority of winemaking and grape growing in town does not fall into the commercial winemaking category. This pertains only to bonded wineries that are licensed with the state. At this time there are only three such operations in town: one on Joseph Drive (the Bluffs), one on Laird Drive and one on Rheem Boulevard. There was also one on Hansen Court, but the new owners indicated that they were not renewing their license.

The winemakers who came to the meeting are part of the Lamorinda Wine Growers Association, the group that went through the long process of having the Lamorinda area recognized as a distinct American Viticultural Area. Susan Captain reminded the commissioners that her vineyard was established over 10 years ago with the planning department's blessing, and that the economic development committee had recommended developing winemaking as an opportunity for making the town a destination.

Neighbor Jacques Blumer, however, compared winemaking with tomato canning and tried to explain that this type of industrial activity would never be authorized in Moraga.

On one side, neighbors wanted complete disclosure regarding pesticide use, limits in terms of promotional and large events, no parking impact on public or private roads, and more stringent noise regulation. On the other side, LWGA claimed that the proposed restrictions would kill the budding economic sector, and asked for allowing larger production, not limiting planted acreage, and allowing more events for larger crowds. The planning commission tried to strike a balance.

The question regarding pesticides is a thorny one. Residents claim that spraying is a hazard for children and adults' health and can have impacts on the watershed. They asked for disclosure, testing and possibly restriction to only organic products. Staff was clear that the matter is a privilege of the state and cannot be further regulated by cities. There were only two ways that were found compatible with the state rules to control pesticide use at the city level: ask winemakers to send the town a copy of the pesticide report they have to submit to the district, and require setbacks to limit impacts on neighbors.

Commissioner Karl Davis gave his personal testimonial from when he lived in Guerneville, next to a large wine grower, and said that a 50-foot setback made a difference. He qualified his remarks by saying they were anecdotal and not scientific proofs of the benefit of such a setback. His fellow commissioners asked that staff researched the efficacy of setbacks on neighboring pollution before bringing the text to the town council. Davis also noted the ambiguity of the proposed text that would regulate the spraying for winemakers, but not for wine growers who can just as easily impact their neighbors.

All agreed that winemakers should send a copy of their county pesticide disclosure to the town. It was noted that it was an after-the-fact document and not a warning to neighbors.

The commissioners supported the restriction to a maximum of 1,000 cases of wine per winery. A producer would have to ask for a specific authorization to produce more. The commission did not support the concept of limiting the number of acres or a percentage of a property dedicated to grapes.

They agreed to limit the number of large events to a maximum of five per year with notification to the town 10 days in advance. They also found it reasonable to limit wine tasting and tours to 10 guests, up to three times a day. The noise level will have to be limited to a maximum of 70 dBA - a weighted decibel level - during events, harvest or use of machinery, and to 60 dBA otherwise.

The next step is for the town council to review and adopt a final ordinance. It should not happen before January, depending on other priorities.

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