



Published January 24th, 2018

Final decision by planning commission about commercial winery regulation falters

By *Sophie Braccini*

It has been over five years since staff and volunteers started working on a commercial winery regulation. A paid consultant was hired, numerous public meetings followed several study sessions, and it looked as if the planning commission would finally be able to make a recommendation at its Jan. 16 meeting, but this was a false expectation. During the long and often frustrating meeting, the commissioners questioned even basic elements of the project, such as the legality of ruling wineries in an agricultural district. The town council must now decide on next steps.

Over the past five years planning directors have changed, commissioners have been replaced, and there are new council members. Each time the topic of winery regulation returns for study, the new members must be educated by staff and the paid consultant, and stakeholders have to come back repeatedly to re-explain the same things. And there is only one active commercial winery in Moraga.

The commissioners are now asking the council members if the new regulation should apply to all home occupation activities, not just wineries; they want to know if regulating an agricultural use in an agricultural district is permitted; they are asking if it would not be a better idea to require commercial winemakers to get a special permit, case by case, to operate a commercial winemaking facility, rather than drafting pages of regulations when the activity is so small in Moraga.

The commission wants to create a new study group to look into these options, but consultant Ben Noble warned that this could take several months of additional meetings and add costs in terms of staff and consultant time.

There were two opposing factions at the meeting: Captain Vineyards owners and others who support the idea of winemaking in Lamorinda as an element of economic vitality and character ask for less regulation, and some of the Captains' neighbors, mainly of the Alalusi family, who oppose a commercial activity in their neighborhood, and are concerned about pesticide contamination.

The commissioners were simply asked to discuss and possibly agree with staff recommendations to finalize the text. The recommendations were the logical consequence of the previous process: requirements from the council to draft a text that would support commercial winemaking in Moraga, but would protect neighbors from adverse effects; demands made by a former planning commission subcommittee that worked with property owners, opponents and the consultant; and the prior planning commission meeting's requests made in October.

Noble addressed the question about zoning by explaining that agriculture is a permitted use in open space, but the wineries were first built as homes and the winemaking came later and was therefore a secondary use that the town could regulate. Commissioner Steve Woehleke asked if a ranch would be subject to the same rules and if the consideration of what came first, the home or the cows, should be looked into. He also noted that if future wineries would open in residential neighborhoods, the impact could be quite different. Some commissioners wondered if it was fair to ask winemakers to add 25-foot setbacks to protect the neighbors from potential pesticide contamination when they are already regulated by the county and state. They also noted that homeowners can use whatever chemicals they want in their homes and no one looks into this. The regulation controls only winemakers, so if someone plants a vineyard of any size but does not make wine, no setback or buffer would be required.

Whether or not the planning commission will ever look at this again will be decided by the town council. The proposed date to review the text is Feb. 14.

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