

NAPA VALLEY VACATION RENTAL ALLIANCE (NVVRA)

INTRODUCING THE TERM: FARM-TO-TABLE GUEST STAYS (FTTGS)

Visitors to Napa Valley want to “live like locals” and specifically, some of them want to be in homes with kitchens where they can prepare food and wine and enjoy it together as a group when not out sightseeing. They are here to support our agricultural base by trying and buying Napa Valley wines. Thus, what we commonly refer to as “vacation rentals” are contributors to Agriculture. These dwellings may be candidates for a special “license” or business classification: Farm-To-Table Rural Guest Stays. Or the practice called Farm-To-Table Guest Hosting. FTTGH will be used in this document to mean either. Many other agricultural destinations specifically allow “ag/farm stays.”

Residential use, but in exchange for monetary compensation, is not considered “commercial” when rental is for longer than 30 days—it is a normal residential use called “long-term rental.” When guest occupancy is less than 30 days, it is not “commercial” either, but it has that label. It is not “commercial lodging” as a hotel or Bed & Breakfast is, but rather it is a private letting of only one residential unit at a specific time beneficial to both owner and guest. It is more properly a home-occupation business. There is need for a new term and its definition. We propose to label it FTTGH and home occupation.

Through FTTGH, guests experience agricultural environment, and support agricultural production, and host owners sustain their residential property financially.

Hosting of Agriculture’s best customers, in a place of their choosing, in accommodations with kitchens for enjoyment and experience of wine with food, is required to meet our goals and policies as expressed in the General Plan. It is a longstanding tradition, and trending upward according to travel industry sources. And it fits with the General Plan. How?

The General Plan provides for valuing economic livelihood as well as agricultural heritage. What makes Napa County unique is also what limits property use. If we want slow growth, or no growth, or for the rural areas to remain as they are as much as possible, then we want to discourage property turnover. Ownership turnover only leads to development pressures and ever-spiraling prices. However, without economic competitiveness and sustainable ownership, prices can collapse. It is a balance. Property owners must remain solvent and competitive in order to sustain Agricultural Preservation and land use. Long-term property ownership is the underpinning of our land use policies, and property ownership must be encouraged and supported. Both agricultural and residential use and ownership must be protected. Any support of agricultural production and profitability (by wine customers) should be protected. And, long-term ownership of residential property that could be developed beyond its minimum allowed dwellings should be supported for its value is keeping the status quo. If these

two goals coincide in the form of guests in home stays who patronize wineries and farms, what could be better?

FTTGH meets the evolving and cyclical demands of tourists for lodging, and meets expectations of affluent, frequent travelers who secure Napa Valley's position as world-class destination among world wine capitals, securing all of our futures. And, it satisfies this demand with absolutely no change to the landscape, no additional buildings only better occupancy of existing dwellings, and desirable dispersal of tourist traffic throughout the County.

TOT (Transient Occupancy Tax) collected from guests by hosts helps fund promotion of County agriculture and tourism, and general fund programs addressing General Plan Goals.

In our opinion, Agriculture needs no better "proof of purchase" than the fact of guests choosing accommodation in areas near wineries and vineyards, and with kitchens. Guest hosts see the empty wine bottles and case cartons of visitors who stay in Napa homes. "Validation" (similar to parking validation) by wineries, tasting rooms, farm stands, etc. visited could easily be accomplished through a FTTRGH card stamped at point of purchase, if this is required to understand the benefit to agriculture.

There are many allowed businesses in support of Agriculture: horse boarding, kennels, veterinarians, childcare, farm worker housing, vineyard management offices and others. FTTGH is another, and is home-based as encouraged in the General Plan.

FTTGH is not commercial lodging, such as B&B and Hotels.

FTTGH is incidental and subordinate to residential property ownership and occupation, in support of large parcels and/or parcels without possibility of subdivision or other variety of income. It sustains these residences as housing.

Farm-To-Table Guest Hosting has a positive impact on agriculture and the wider community, and should be recognized as non-commercial. Eliminating the practice would have significant negative impacts on the agricultural community and beyond.

**HOW ADMINISTRATIVELY PERMITTED FARM-TO-TABLE GUEST HOSTING
FITS WITHIN PROVISIONS OF THE GENERAL PLAN WITHOUT
AMENDMENT**

Specifically with respect to the General Plan:

NVVRA suggests there is NO AMENDMENT NECESSARY to the General Plan. NO CHANGE IN INTENT, NO CHANGE IN INTENSITY is proposed. NO LAND USE RE-DESIGNATION or PARCELIZATION is proposed. NOTHING THAT WOULD REQUIRE A VOTE OF THE PEOPLE is proposed. The County Board of Supervisors has the authority to clarify definitions and zoning code with discretion.

We offer clarifying definitions. We offer a zoning code clarification.

The proposed definitions and clarifications as they apply to land designated Agriculture, Watershed and Open Space or Agricultural Resource on the Land Use Map are completely compatible with agricultural uses, do not interfere with accepted agricultural practices, and do not in any way affect the stability of land use patterns.

We propose codifying a specific type of residential use of dwelling units within the Agricultural Land Use Areas (AWOS, AR) that does not conflict with the General Plan.

We propose this codification, in the form of definitions and clarifications, in order that prohibiting beneficial use of dwelling units during unoccupied periods by their owners not constitute, in effect, an unconstitutional taking of the landowner's property. The Board of Supervisors may adopt definitions and clarifications to the extent necessary in order to prevent unconstitutional taking of property. Policy AG/LU-111. Forcing a landowner, when not occupying his or her dwelling, to "waste it" is what is at issue. If, for reasons of their own periodic occupation, and the placement of their own furnishings and possessions, or reasons of their family's private, residential needs, owners cannot offer their property for long-term housing then the prohibition of its short-term use is a waste, and consequentially a taking of value.

A home occupation use may be allowed upon issuance of an administrative permit. We suggest such permits for Farm-To-Table Guest Host home-based businesses.

These are not Bed and Breakfasts, and are substantially different in these ways:

FTTGH do not serve food.

FTTGH do not have multiple units or multiple guests at a time, rather only one guest at a time who is the responsible party.

FTTGH are not open year-round, and do not have regular hours, and are sometimes closed for business due to owner occupancy for periods of months or years.

Action Item AG/LU-33.1 directs the County to adopt local guidelines or zoning code definitions to clarify the distinction between single-family residences and commercial short-term guest accommodations, specifying the uses and ownership or rental arrangements associated with each. We specifically suggest PRIVATE, non-corporate ownership, OWNER and guest OCCUPANCY, FURNISHING and equipping BY OWNER, and rental duration less than 30 as definitions that clarify the distinction between residences and commercial accommodations. Dwelling units are accommodations for their private owners—their purpose is as living accommodations for their owners. These essential elements clarify definition of FTTGH as home occupation of single-family residences, and not commercial establishments. In a host of other ways they are not commercial: no signage, no parking lots, no hours of operation, etc. They are residential occupancy for duration less than 30 days, and this can be, and should be defined by the County as NON-COMMERCIAL.

FTTGH are residential use and Agriculture-related marketing. Policy AG/LU-2 Guest hosting customers of Agriculture in style and manner and location of their choosing.

FTTGH are a component of an agricultural support system including physical components such as agricultural and natural resource education and experimentation, the promotion of which is specifically called for. Policy AG/LU-5

FTTGH are not a new use or development of a parcel, they are residential use. They are needed for agriculture to thrive, and to absorb homeowner expense of very large parcels that cannot be subdivided or developed for any other income use than agriculture. Policy AG//LU-12. Homeowners who cannot afford to maintain residences may decide to sell property, which almost always is developed further in order to leverage investment in it. Allowing existing dwelling units to be used to the economic benefit of their owners relieves this pressure toward turnover and increased development.

FTTGH residences should be permitted in areas where the predominant use is agriculturally oriented, as is the INTENT. They are intended as places for the enjoyment of open space and appreciation of agriculture; and through their patronage they help sustain the economic and aesthetic attributes and assets of the County of Napa. Policy AG/LU-21. They are single-family dwellings, which are an allowed GENERAL USE. They pose absolutely no impact on INTENSITY, as they are existing dwelling units used by guests exactly as they are by owners.

FTTGH are not urban developments, nor do they require any urban services. In fact, accommodating visitors to Napa County in this manner relieves pressure to accommodate them in urban developments, and disperses them in ways that cause less impact on the agricultural areas (traffic bottlenecks and distance traveled between lodging and rural/agricultural attractions).

FTTGH are not considered urbanizing. Engaging in nature-based recreation or agriculturally compatible uses, and single-family residential use is not considered urbanizing. Policy AG/LU-27.

FTTGH is a new concept (for Napa County, but other destinations specifically allow “ag” stays), that can clarify the existing practice of vacation rental, the promotion of which is specifically called for, that creates flexibility, economy, and variety in housing (affordability) without resulting in any environmental impact, without allowing residences to become timeshares, resorts, or hotels. A “similar tourist-type accommodation” is not defined, but the language suggests dedicated use as tourism, which single-family residential use is not. Policy AG/LU-33. The Board of Supervisors has authority to define terms, and we suggest defining FTTGH as a residential use primarily, and a home-occupation use incidentally. Clearly homeowners are allowed to host guests in their homes, as well as rental tenants, and only the duration of that host period is at issue (less than 30 days). FTTGH should be promoted as a concept in service of Agriculture, and in service of affordability of very large parcels, and in service of housing in agricultural areas that can be kept as-is and not sold or developed further due to non-affordability. Families with houses on highly restricted agricultural property cannot make a living in remote urban locations without compromising the intent of the General Plan, and they should be helped to sustain their ownership of large parcels that cannot be subdivided or developed beyond residential use, or without significant capital investment for agricultural development.

In recognition of the limited employment opportunities available within rural areas, the County shall allow home occupations that do not change outward appearance of the home or impact surrounding residents or land uses. Policy AG/LU-48. Rural property owners need to make a living somehow, and create income somehow, and may move from one activity to another over time to accomplish this. Occasional, or periodic guest hosting is a way to do this that has the desired public and private effects of home-based businesses.

Action Item AG/LU 48.1 directs the County to review zoning code requirements for Home Occupation permits, and update those requirements to provide greater flexibility in situations where there will be no off-site impacts. In the case of FTTGH all of the off-site impacts are significantly positive to the community. Reviewing zoning code requirements and responding in light of new knowledge to trends, or needs, is called for by the General Plan. The known economic contribution of FTTGH guests, the known travel industry trends toward residential preference, and the known challenges to wine and destination marketing all point toward review of code to provide greater flexibility. We specifically call for the permitting of FTTGH home occupation.

Housing Element Goal H-4 seeks to avoid conversion of housing to non-residential uses. Ability to afford rural residential property ensures it remains housing. When it is sold, its likelihood of development to other uses is opened wide. Since existing parcels and existing dwellings are the subject of FTTGH permitting, their affordability and surviving use as housing is served.

Program H-1c assigns high priority to abatement of illegal vacation rentals and ensuring that existing dwelling units are used as residences, rather than tourist accommodations. This FTTGH classification/clarification will eliminate illegal, unregulated vacation rentals, and help assure affordability of large, restricted-use agricultural parcels, and their sustained use as housing instead of turnover and conversion to more profitable agricultural establishments such as wineries. The caveat of renting for less than 30 days allows for the collection of Transient Occupancy Tax, which further accomplishes all goals of the General Plan.

Economic Development Element goals of industrial diversity and opportunity are clearly and substantially served by FTTGH in favor of property owners as well as agriculture and tourism. Elsewhere we have discussed at great length the huge economic impact on business, jobs, property values, and tax rolls. Use of private residential property that would otherwise be wasted to achieve shared economic goals stated in the General Plan should be enabled and encouraged. In most specific terms, FTTGH is a practice with no negative impact and millions of dollars of positive impact toward sustaining Napa Valley as a legendary destination and world wine capital.

Policy E-15 recognizes that a portion of the County's population is located in rural areas, and needs to make a living or generate income, and that small businesses are important to the overall economy. The County is specifically encouraged to meet the needs of these people, by enabling appropriate home-based businesses to be established in suitable locations. Permitting FTTGH home occupation is the most beneficial way to do that, with no environmental or other negative impacts.

FTTGH serves the intent of agricultural use and its marketing, and the preservation and enjoyment of open space. But the primary use is residential owner occupancy and the sustenance of it through affordability. If the County sees FTTGH as "Accessory Use" to agriculture and its marketing, or enjoyment of open space, that is consistent.

18.08.170 "Commercial use" should be expanded to except FTTGH and define it as home occupation because it is home occupation and it is not primarily a commercial establishment. It is residential activity, residential use, and except for shorter duration exactly the same as long-term rental, which is not commercial. In a host of other ways FTTGH is not commercial (no signage, lighting, hours, parking lots).

18.08.310 "Home occupation" means an occupation conducted in a single-family dwelling unit by members of the family residing on the premises (though not at all times, we submit), which is incidental and subordinate to the use of the dwelling unit as a residence. In fact and in spirit FTTGH fits this definition. The owners, and in their absence their belongings and furnishings, occupy these residences making them unavailable for long-term rental by others. Hosting guests is incidental to owners making their home there. It is not the primary purpose for their ownership, it is not the majority use of their dwelling in terms of time whether within the year or over the years; and it is not the majority use of their complete property including land or their complete dwelling

unit(s) in terms of space or acreage. It is an incidental and subordinate use of the property as their residence. It is a way to create income within their home, just as any other home-based business.

18.104.050 Bed and breakfast establishments are prohibited as home occupations, but FTTGH are not bed and breakfast establishments. They do not serve food, have multiple paying guests, or remain open for business.

18.104.090 Home occupations are governed by the following rules:

A. None other than the regular residents shall be engaged in the home occupation/home-based business. The private property owners are the ones running the home-based business operating the home occupation.

B. The use as FTTGH is incidental and subordinate to its use as residential purposes by its occupants. Its entire purpose is residential use.

The use of the dwelling for the home occupation must be not more than twenty-five percent of the gross floor area and must be used in the conduct of the home occupation. This language is meant to preclude “taking over” a built dwelling for a purpose other than residential occupancy. There is no taking over of a dwelling unit for another purpose with FTTGH—the dwelling is furnished and used at all times for residential use. (The homeowner might offer 25% of their dwelling as that for which they charge, and they could gift any remaining floor area. Logically, guests are hosted overnight, and owners could charge for bedrooms amounting to less than 25% of the floor area. Owners may offer their kitchens, pools or anything they want to anyone they want free of charge since these are only used in waking hours, and what is paid for is at its core overnight accommodation. This clarification of home occupation might be needed or not.) The purpose of this (25%) language is to preclude the re-purposing of dwellings to other use, and there is none at issue. Residential use with owner occupation, by self or belongings, remains the primary purpose, indeed the entire and express purpose. It is indeed incidental and subordinate to host guests in one’s furnished home some PART of the time. Partial equates to subordinate. Obviously a home occupation could not occur without a home being occupied. If a home were not occupied it could be offered as long-term housing. And keeping in mind that it is completely allowable to rent any dwelling monthly, only the guest occupancies less than 30 days accrue to this discussion anyway. Incidental and subordinate is a standard that is clearly met.

C. and D. and E. are of no consequence to this discussion. Conduct of residential hospitality does not require changes to place or dwellings, and what is for sale is residential hospitality in and deriving from the place.

F., G., H. and I. are not affected whether owner occupies or their guest. All residential equipment and activities are the same. Regulations limiting occupancy, noise and parking to normal for the dwelling are suggested as part of the permit, as well as collection of Transient Occupancy Tax.

K. An administrative permit should be issued for use of FTTGH classified use.

J. Is Reserved in the General Plan. This may be where any definition, clarification or classification belongs affecting FTTGH.

18.120.010 Exception to use limitations item D.1. states that a home occupation, provided it meets 18.08.310 (incidental and subordinate) and is not a bed and breakfast, shall be allowed in any zoning district upon issuance of an administrative permit. This is what we seek for FTTGH, in any Agricultural zoning district.

***HOW COUNTYWIDE RESIDENTIAL VACATION RENTALS AND
ADMINISTRATIVELY PERMITTED FARM-TO-TABLE GUEST HOSTING FIT
WITHIN PROVISIONS OF THE GENERAL PLAN WITHOUT AMENDMENT***

Some people consider rental for duration less than 30 days as “*commercial*.” Thus, hotels and B&Bs are called “commercial” lodging, and “bed tax” is customary. However, **Residential Vacation Rentals ought to be treated differently because they are different.**

Long-term residential rental is an equally commercial transaction, but is specifically allowed in all zones. Short-term residential rental is no different, other than the number of days. In the case of Residential Vacation Rentals, the artificial distinction between long-term rental and short-term rental should be abandoned.

Residential Vacation Rentals should be defined as:

Furnished, private residential dwelling units let to guests for duration less than 30 days at a time.

Private, non-corporate, ownership of Residential Vacation Rentals supports the idea that they should not be considered commercial. **Transient occupancy supports the idea that they should collect Transient Occupancy Tax.**

Residential Vacation Rentals do not require signs, bright lights, big parking lots, or any of the usual characteristics of a commercial enterprise.

Whether owners live in the dwelling unit, or their guests, or tenants, the use is residential occupancy, and *residential occupancy is not a commercial use, nor is it a new use, nor is it an urban use. The ordinance should specifically recognize this.*

For these reasons, Residential Vacation Rentals are not “commercial” in the usual sense, and should be designated “non-commercial” in the ordinance.

Residential Vacation Rentals are not being proposed on land not already zoned to allow dwelling units. *Rezoning will not be necessary.*

The General Plan provides for residential use, not just agriculture, in lands designated AWOS and AR. Residential Vacation Rentals should qualify under these same provisions with the classification home occupation/FTTGH.

Residential Vacation Rentals *are a kind of home-based business*, which are specifically encouraged by the General Plan.

The General Plan allows *other businesses on AR and AWOS* lands: residential care facilities, family daycare centers, farm worker housing, kennels, veterinary facilities, feed lots, horse boarding, and vineyard management company shops and offices. The impact of residential vacation rentals on agriculture is similar to these businesses, i.e., negligible negative impact while providing a positive, supportive function.

Residential Vacation Rentals are wholly contained within already approved dwellings, and thus constitute neither growth, nor sprawl, nor *encroachment into the AR or AWOS*.

The Right to Farm is already protected where these residences are, and this does not change with duration of occupancy.

Agriculture is not negatively impacted by the departure of one guest and the arrival of another. However, the guests of Napa County’s current vacation rentals visit many wineries and purchase millions of dollars worth of wine there. Their wine buying constitutes a *positive impact on agriculture*. The significant reduction of those wine purchases caused by a vacation rental ban would have *a negative impact on agriculture*. **To preclude this negative impact, and to preserve their longstanding positive impact, allowance should be made to recognize Residential Vacation Rentals as non-commercial.**

NAPA VALLEY VACATION RENTAL ALLIANCE