

**DRAFT - September 2015**

**Land Use Regulations to Consider When Purchasing Property for a Vineyard**

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**Prepared in partial completion of deliverables for the Virginia Wine Board.**

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When considering purchasing or leasing land for a vineyard in Virginia, be aware that most localities have land use policies regulating the use of property within the County or Town's jurisdiction. These regulations can affect the suitability of land for a vineyard or winery and are complementary to the assessment of abiotic and biotic characteristics of the land.

As you move forward with your vineyard site selection process, ask the following questions and other related questions about the property to your real estate agent, or inquire with the local planning office. The answers regarding zoning, easements, floodplains, and other regulations can affect the financial suitability of potential land as a site for a vineyard.

Many of these considerations have a spatial representation and can be included as a layer in the site assessment report. At this time, examples of federal, state and local policies and regulated areas can be found in CGIT's Broadband Policy tool at <http://www.cgitt.vt.edu/broadband>. In 2016, we plan to integrate the land use regulations into the site assessment tool at <http://www.cgitt.vt.edu/vineyards>. Please provide any feedback and comments to [sforza@vt.edu](mailto:sforza@vt.edu).

**Q1. What is the Zoning of the property? Is agriculture a permitted use? Are Vineyards a Conditionally Permitted Use?**

**Zoning** regulates the type and intensity of how a property can be developed in a manner compatible with the surrounding land uses. Some property may be dedicated for industrial or commercial uses while other areas may be dedicated to residential or rural uses. Each zoning district has specific development standards (for example, minimum lot size, building height limits, or number of parking spaces required) that are adopted by the local elected officials and are detailed in the **Zoning Ordinance**. Zoning Ordinances can often be found on the localities website.

Some uses are **permitted by right**, for example agriculture. Other uses are allowed with a special or conditional use permit granted by the local elected

officials. **Conditionally permitted uses**, for example a winery, are general acceptable uses in certain zoning districts depending on the scale and size of the building and potential impacts, for example traffic.

## **Q2. What is proposed to be constructed around my property in the future?**

The **Comprehensive Plan** is a guide outlining policies of how the locality plans for the future related to growth, public services, infrastructure, etc. Comprehensive Plans include future land use maps illustrating the desired future use of a property such as industrial or agriculture, as well as proposed future road extensions, connections, or improvements. Virginia localities are required to have and periodically review and update the Comprehensive Plan which can often be found on the localities website.

## **Q3. Are there any known restrictions or easements on the property?**

Easements are an interest in real property that is held by someone other than the property owner, which limits all or part of the property to a specific use or condition. There are many types of easements with the most common defined below:

**Public Utility Easements** are areas of a property reserved for existing or future utilities to be constructed. Some utilities, such as a gas line are buried underground while other, such as power lines, are aboveground. Utility easements are recorded with the property's title and plat and generally prohibit any construction or crops to be grown within the easement area.

**Conservation Easements** permanently limits the current and future development of a property while retaining or protecting natural, scenic or open space values of the property. Conservation Easements can already exist on a property or be established after purchase. A local land trust, for example the New River Land Trust (<http://www.newriverlandtrust.org/>), or a larger organization such as the Virginia Outdoors Foundation (<http://www.virginiaoutdoorsfoundation.org/>) can hold the conservation easement. Each conservation easement is specific to the property, for example prohibiting any building construction on the property or allowing one personal residence. Also specific to the property are the tax benefits of that conservation easement.

**Purchase of Development Rights (PDR)** are similar to conservation easements, except the program is managed by the locality. A PDR program enables a locality to preserve working lands such as farms and working forest

lands, as well as open space and natural areas by restricting future development of the land while permitting landowners to continue to use their land as they had been. To do this, localities can purchase conservation easements from private landowners or land can be donated for tax incentives.

**Agricultural and Forestal Districts (AFD)** are tax relief districts established by a Virginia locality to temporarily promote the preservation, protection, and improvement of agricultural and forestal lands for the production of food and related agriculture products. Property is voluntarily enrolled in an AFD for a short period of time, 4-10 years that can be renewed for subsequent periods.

Additional information about farmland preservation opportunities in Virginia that could affect the economic potential of your vineyard, check

**Virginia Department of Agriculture** website at  
<http://www.vdacs.virginia.gov/preservation/tools.shtml>

**Virginia Department of Conservation** website at  
[http://www.dcr.virginia.gov/land\\_conservation/wheretogo5.shtml](http://www.dcr.virginia.gov/land_conservation/wheretogo5.shtml)

#### **Q4. Other Question to Ask?**

**A. Is the property adjacent to national or state owned forest, park or protected natural resource area?**

If so, what are the development plans, if any, for the adjacent publically owned land? One benefit of purchasing property adjacent to a national forest or state park is the extension of your property's viewshed on regulated undeveloped property.

**B. Are there sensitive or endangered animals or plants located in the area?**

**Virginia's Natural Heritage** "program's work is focused on science-based conservation to protect Virginia's native plant and animal life and the ecosystems upon which they depend." More information can be found at  
[http://www.dcr.virginia.gov/natural\\_heritage/](http://www.dcr.virginia.gov/natural_heritage/)

**C. Are there any historic buildings, features or events that occurred on the property?**

If yes, are there historic conservation easements already established or could be established and affect potential development of the property? If there is a historic building, can historic tax credits be used to help finance renovations? Contact the local historic district or check with the Virginia Department of Historic Resources at <http://www.dhr.virginia.gov/>

**D. Is the property governed by a master plan or property/home owners association that could impact the economic potential of the property?**

Check with your real estate agent or contact the localities planning office for more information. Information could be recorded and included with the title to the property.

**Homeowners' Association** – a nonprofit organization governed by its own bylaws, operating by land agreements generally through a specific subdivision. Each lot is subject to an automatic charge for a proportionate share of the expenses for the organization's activities, which, if unpaid, become a lien against the property.

**Master Plan** – conceptual plan indicating interrelationships between uses and facilities on a site for those projects, phased developments, or developments occurring over a span of time, which may be adopted by an institution, business, or organization.

**E. Is the property in a designated flood zone?**

Check with your real estate agent, the local planning office, or an engineering firm to determine if the property is in a designated **flood zone or flood plain**. Besides impacting the vineyard, flood zones can limit the area where buildings can be constructed and flood insurance premium rates.

**Q5. Are you planning to construct any building on the property? Or renovate any existing buildings on the property?**

Before commencing any construction, check with the local planning, building and engineering department. Depending on the scale of renovations and construction, a **site plan and/or a building permit** may be needed. The proposed site plan will determine if the proposed development meets the local zoning district ordinance requirements such as for lot size, building setback, and parking spaces.