

Raw Land Purchase

Land Use/Entitlement Checklist

General Plan

- General Plan land use designation
- General Plan policies limiting development near resources, such as special status species, scenic corridors, hillside development, etc.
- If the site is in the coastal zone, check the Local Coastal Plan

Zoning

- Is a winery an allowed use (with or without a use permit) in the parcel's zoning district?
- Does the jurisdiction do development agreements?
- Are there any zoning overlays on the parcel(s) that limit development?
- Are there other ordinances imposing regulatory constraints such as setbacks, height limitations, parking requirements, scenic resource restrictions, wetland setbacks, riparian setbacks, etc.
- Is there a development moratorium?
- Is there an ordinance regulating development, by limiting building or other permits the jurisdiction can issue in a specific time period?
- Does the jurisdiction have an ordinance requiring workforce housing in conjunction with developing a winery?
- Roads - are the roads to the site adequate for simultaneous ingress and egress during an emergency?

Permits

- What entitlements are required (conditional use permit, design review, etc.)?
- What are the permit fees?
- How long will it take to process these entitlements?
- How much will it cost to process these entitlements?
- Once issued, how long are the permits valid? For example, use permits in many jurisdictions expire two years after they are approved, unless they are vested.

Fees

- What impact fees does the jurisdiction impose and how much are they? (traffic, art, in lieu affordable housing fees, etc.)
- When are the impact fees due?
- Other applicable fees and when must they be paid?

Resources

- Has a biologist reviewed the property and relevant databases to look for special status species?
- Has a biologist been to the site to physically inspect for special status species?

- If the winery will be served by groundwater, is the parcel regulated by a sustainable groundwater management agency?
- If groundwater is the water source, is it close enough to surface water that the public trust doctrine will come into play?
- If groundwater is the water source, is there a hydrologic connection to surface water that is designated critical habitat?
- If the water source is not groundwater (surface water or public agency water), documentation that there is adequate water to serve the proposed development

Other

- Does the jurisdiction have a policy or preference against “oversaturation” and is this parcel in an area that is considered over saturated for wineries?
- Events - if events are an integral part of the business plan for a winery, check the local ordinance and political climate on events carefully
- Check the political climate for receptiveness to wineries
- Also consider state and federal Endangered Species Acts, Porter Cologne Water Quality Act, and the Sustainable Groundwater Management Act
- If the property is in the coastal zone, consider the Local Coastal Plan and California’s Coastal Act
- Is the site in a high or very high wildlife hazard area?

CEQA

- What level of CEQA review may be required (Mitigated Negative Declaration or EIR)?
- Consider all potential impact areas:
 - Aesthetics
 - Agricultural and forestry resources
 - Air quality
 - Biological resources
 - Cultural resources
 - Energy
 - Geology/soils
 - Greenhouse Gas Emissions
 - Hazards and hazardous materials
 - Hydrology/water quality
 - Land use/planning
 - Mineral resources
 - Noise
 - Population/housing
 - Public services
 - Recreation
 - Transportation (VMT)
 - Tribal cultural resources
 - Utilities/service systems

- Wildfire (and evacuation)
- Mandatory findings of significance
- If in a rural or semi-rural area, consider how to navigate VMT and will the project need a Statement of Overriding considerations for VMT?

Existing Winery Purchase

Land Use/Entitlement Checklist

Existing Permits

- Review all existing permits and the accompanying CEQA document
- Are the permits valid?
- If the facility has a use permit, does the use permit have an expiration date?
- If the facility was approved but not constructed, have the permits expired or were they vested?
- Is the facility in compliance with all existing permits?
- Do facility operations comply with CEQA document?
- If the facility does not comply with all existing permits, what are the violations, and will new permits be required to cure these violations to maintain the status quo?

Legal nonconforming use

- Does the facility predate permitting requirements?
- If yes, is it a legal nonconforming use?
- Carefully identify the extent of the legal nonconforming use.
- Carefully review the jurisdiction's legal nonconforming use ordinance. Most jurisdictions prohibit expansions of legal nonconforming uses and most commercial legal nonconforming uses cannot be rebuilt if they are destroyed by an act of God or nature, such as a wildfire.
- Consider LNCU determination as a contingency during due diligence

Vested rights

- Were the existing permits vested and is there a written vesting recognition from the jurisdiction?
- If there is no written recognition of a vested right, consider making getting written recognition from the jurisdiction a contingency during the diligence phase of the transaction.
- Prior CEQA document
- What mitigation measures are ongoing?
- Do any financial assurances or bonds need to transfer with the title?
- Any conveyance notice obligation to other agencies

If you plan to change or expand the existing facility:

General Plan

- General Plan land use designation
- General Plan policies limiting development near resources, such as special status species, scenic corridors, hillside development, etc.
- If the site is in the coastal zone, check the Local Coastal Plan.

Zoning

- Is a winery an allowed use (with or without a use permit) in the parcels zoning district?
- Does the jurisdiction do development agreements?
- Are there any zoning overlays on the parcel that limit constrain development?
- Are there other ordinances imposing regulatory constraints such as setbacks, height limitations, parking requirements, scenic resource restrictions, wetland setbacks, riparian setbacks, etc.
- Is there a development moratorium?
- Is there an ordinance regulating development, by limiting building or other permits the jurisdiction can issue in a specific time period?
- Does the jurisdiction have an ordinance requiring workforce housing in conjunction with developing a winery?
- Roads - are the roads to the site adequate for simultaneous ingress and egress during an emergency?

Permits

- What entitlements are required (conditional use permit, design review, etc.)?
- What are the permit fees?
- How long will it take to process these entitlements?
- How much will it cost a process these entitlements?
- Once issued, how long are the permits valid? For example, use permits in many jurisdictions expire two years after they are approved, unless they are vested.

Fees

- What impact fees does the jurisdiction impose and how much are they? (traffic, art, in lieu affordable housing fees, etc)
- When are the impact fees due?
- Other applicable fees and when must they be paid?

Resources

- Has a biologist reviewed the property and relevant databases to look for special status species?
- Has a biologist been to the site to physically inspect for special status species?
- If the winery will be served by groundwater, is the parcel regulated by a sustainable groundwater management agency?
- If groundwater is the water source, is it close enough to surface water that the public trust doctrine will come into play?
- If groundwater is the water source, is there a hydrologic connection to surface water that is designated critical habitat?
- If the water source is not groundwater (surface water or public agency water), documentation that there is adequate water to serve the proposed development

Other

- Does the jurisdiction have a policy or preference against “oversaturation” and is this parcel in an area that is considered over saturated for wineries?
- Events - if events are an integral part of the business plan for a winery, check the local ordinance and political climate on events carefully.
- Generally check the political climate for receptiveness to wineries

CEQA

- What level of CEQA review may be required (CEQA streamlining, addendum, Mitigated Negative Declaration or EIR or subsequent CEQA document)?
- Consider all potential impact areas:
 - Aesthetics
 - Agricultural and forestry resources
 - Air quality
 - Biological resources
 - Cultural resources
 - Energy
 - Geology/soils
 - Greenhouse Gas Emissions
 - Hazards and hazardous materials
 - Hydrology/water quality
 - Land use/planning
 - Mineral resources
 - Noise
 - Population/housing
 - Public services
 - Recreation
 - Transportation (VMT)
 - Tribal cultural resources
 - Utilities/service systems
 - Wildfire (and evacuation)
 - Mandatory findings of significance
- If in a rural or semi-rural area, will the project need a Statement of Overriding considerations for VMT?