

# **Attachment J**

Office of City Attorney Supplemental Memorandum



# CITY OF NEWPORT BEACH

## CITY ATTORNEY'S OFFICE

**DATE:** July 3, 2025

**TO:** Newport Beach Planning Commission

**FROM:** Yolanda M. Summerhill, Assistant City Attorney

**SUBJECT:** Public Hearing Item No. 3 Ford Road Townhomes (PA2025-0049)  
CEQA Statutory Exemption

On June 30, 2025, Governor Newsom signed Assembly Bill (AB) 130, which provides an additional *statutory exemption* that would apply to the subject project. AB 130 added California Public Resources Code (PRC) Section 21080.66, exempting housing projects that meet the following criteria: the project is within an incorporated municipality or urban area with a site size of 20 acres or less, meets certain infill criteria including at least 75% of the perimeter be adjoined with urban uses, is consistent with the General Plan and Zoning Code, meets the minimum density requirement for the site's location, and does not require the demolition of historic resources.

The project identified as *Ford Road Townhomes (PA2025-0049)* (Project) on the Planning Commission's agenda this evening meets the criteria prescribed by PRC Section 21080.66, as described below.

- The Project site is 1.16 acres, which is less than the 20-acres threshold;
- The Project site is surrounded by urban uses consisting of residential, parks and recreation, and public open space;
- The Project site was included in Appendix B of the City's adopted and certified 6<sup>th</sup> Cycle Housing Element (Housing Element) as a housing opportunity site (Site ID No. 141) that could accommodate residential redevelopment. General Plan Land Use Element Policy LU 4.4 (Rezoning to Accommodate Housing Opportunities) supports residential uses at this site. Furthermore, the site was rezoned by way of the Housing Opportunity (HO) Overlay Zoning Districts and is included within the Newport Center Area (HO-4) Subarea;
- The Project would have a density of approximately 23 dwelling units per acre (du/ac) which meets the minimum density of 20 du/ac for the site; and
- The Project is in compliance with the environmental standards outlined in Government Code Section 65913.4(a)(6).

Additionally, PRC Section 21080.66 requires a special consultation with Native American tribes that are satisfied through the Housing Element Implementation Program EIR.

Specifically, the City is required to provide notification to the tribes that are traditionally and culturally affiliated with the project site. The tribe(s) then have 60 days to confirm whether they wish to consult.

As detailed in the Housing Element Implementation Program EIR and CEQA Consistency Memo included with the project materials, during the Housing Element Implementation Program EIR process, the City requested a Sacred Lands File search for all sites within Appendix B of the Housing Element from the Native American Heritage Commission (NAHC) on March 5, 2023. On March 22, 2023, the NAHC responded that the findings of the search were positive and identified 19 Native American tribal representatives to contact for further information on potential tribal resources. To comply with both requirements of Senate Bill (SB) 18 and AB 52, the City mailed and emailed notices to all listed tribes on April 7, 2023. On April 13, 2023, the City received a response from the Gabrieleño Band of Mission Indians – Kizh Nation, who expressed no concerns regarding implementation of the Housing Element, but requesting consultation on future projects (Section 4.16 of the City of Newport Beach General Plan Housing Implementation Program Draft Program Environmental Impact Report.)

Condition of Approval No. 31 requires compliance with all mitigation measures within the General Plan EIR, as follows:

*The Project shall comply with all applicable mitigation measures within the General Plan Housing Implementation Program ("GPHIP") Program Environmental Impact Report ("PEIR") Mitigation Monitoring and Reporting Program ("MMRP") as specified within Attachment A of the CEQA Consistency Memorandum prepared by T&B Planning, Inc., dated June, 2025.*

Notably, Standard Condition No. SC CUL-1 of the MMRP requires compliance with City Council Policy K-5 and requires creation of a Cultural Resource Monitoring and Discovery Plan (CRMDP) if Native American resources are encountered. Furthermore, a consulting Native American tribe shall be retained and compensated as a monitor for the Project site from the time of discovery to completion of ground disturbing activities.