From: Duggan, Scarlet
To: [redacted]
Subject: RE: PA25-0072 - Public Hearing on December 4, 2025 - Public Comments of Robert J. Berg
Date: Friday, December 12, 2025 2:18:45 PM
Attachments: Supplemental Letter to Orange County Public Works Department Addressing Staff Report and Recommendation.pdf

---

Hi Robert,

We have received your email below. Please note that your email will be provided to the Zoning Administrator as it relates to the 12/18/25 public hearing of PA25-0072. Your comment will be posted on the Zoning Administrator page at least 72 hours prior to the scheduled meeting date.

Thank you,

Scarlet Duggan, Land Use Manager
OC Public Works | Development Services
601 N. Ross Street, Santa Ana, CA 92701 | (714) 667-1606
OC PublicWorks
Integrity, Accountability, Service, Trust

From: Robert Berg [redacted]
Sent: Friday, December 12, 2025 11:49 AM
To: Duggan, Scarlet <scarlet.duggan@ocpw.ocgov.com>; Robert Berg [redacted]
Subject: Fwd: PA25-0072 - Public Hearing on December 4, 2025 - Public Comments of Robert J. Berg

Please ensure that the previously submitted document attached hereto is included in the documents available to the public when they click on the Public Notice link for the continuation of the public hearing in this matter on December 18, 2025. Please confirm. Thank you.
Regards, Robert Berg.

Robert J. Berg, Esq.
[redacted]

Begin forwarded message:

From: [redacted]

Date: December 3, 2025 at 2:44:00 PM CST

To: Scarlet Duggan <scarlet.duggan@ocpw.ocgov.com>, Ray Diaz <ray.diaz@coco.oc.gov>, Robert Berg [redacted]

Subject: PA25-0072 - Public Hearing on December 4, 2025 - Public Comments of Robert J. Berg

Dear Ms. Duggan. I am the attorney for a number of Cameo Highlands residents who are opposing the above-referenced application of Verizon Wireless and AT&T Mobility for permits to install and operate two 40-foot tall mono-eucalyptus cell towers across from [redacted] on the periphery of the Pelican Hill golf course.

Please provide the attached letter from me to the Zoning Administrator immediately and please post it immediately as a public comment on the OCPW website in advance of tomorrow's Public Hearing. I am sending this email and attached letter more than 24 hours in advance of the public hearing so that the Zoning Administrator will be able to consider the attached letter in connection with tomorrow's public hearing. Please confirm receipt and the fact that you will forward these materials to the Zoning Administrator and post on the website. Thanks so much for your help. Best regards, Bob Berg.

Robert J. Berg, Esq.
Law Office of Robert J. Berg PLLC
425 Mount Pleasant Avenue
Mamaroneck, New York 10543
(914) 522-9455
robertbergesq@aol.com

Robert J. Berg, Esq.
Law Office of Robert J. Berg PLLC
19 Carriage House Lane
Mamaroneck, New York 10543
(914) 522-9455
robertbergesq@aol.com

December 3, 2025

BY EMAIL (scarlet.duggan@ocpw.ocgov.com)

Ms. Scarlet Duggan, Land Use Manager
Orange County Public Works, Development Services
601 N. Ross Street
Santa Ana, CA 92701
(714) 667-1606

Re: Verizon Wireless and AT&T Mobility (PA25-0072/OC25-60582)
VZW "Cameo Highlands"/AT&T "Pelican Hill
Address: t/b/d across from [redacted]
APN: [redacted]

Dear Ms. Duggan:

I am an attorney who has been retained by residents of the Cameo Highlands neighborhood in Corona Del Mar, CA who oppose the two 40-foot tall mono-eucalyptus cell towers which Verizon Wireless and AT&T Mobility are proposing to install and operate on Pelican Hill property immediately above [redacted]. Please add this letter opposing said cell towers to the Orange County Public Works ("OCPW") file in connection with the Zoning Administrator's review of these two wireless telecommunications facility projects in advance of the Public Hearing on said application. Please post this letter on the OCPW website in advance of the Public Hearing.

INTRODUCTION

COUNTY STAFF HAVE ABDICATED THEIR DUTY TO PROTECT THE PUBLIC INTEREST AND HAVE FAILED TO TAKE A "HARD LOOK" AT THE VERIZON WIRELESS AND AT&T MOBILITY APPLICATION FOR TWO MONO-EUCALYPTUS CELL TOWERS TO DETERMINE IF THE WIRELESS CARRIERS HAVE PROVED BY A PREPONDERANCE OF EVIDENCE THAT THE PROJECT COMPLIES WITH THE COUNTY'S WIRELESS FACILITY CODE AND IS THE LEAST INTRUSIVE MEANS TO DO SO

County Staff Were Advised at the Outset of the Proposed Project by Cameo Highlands Residents that County Staff Needed to Scrutinize the Application

Closely and Retain Independent Subject Matter Experts to Aid County Staff in their Review Because the Applicants Filed a Materially False and Misleading Application and County Staff Lack the Expertise Internally to Conduct the Required "Hard Look"

On August 1, 2025, I filed a detailed letter on behalf of my clients, addressed to Ms. Scarlet Duggan, opposing the above-referenced application. I began that letter by reminding County Staff that Verizon Wireless and AT&T Mobility have the burden of proof in demonstrating that their proposed cell towers will comply with the County's Wireless Communication Facility Ordinance, Section 7-9-109 of the County of Orange Comprehensive Code. I urged OCPW to "put them to the test" and to scrutinize the wireless carriers' applications carefully and question them -- not just rubber stamp their applications. But I also provided affirmative evidence that shows that the two proposed cell towers are unnecessary; the proposed sites immediately across from one of the most expensive, beautiful, and scenic residential neighborhoods in the world are completely inappropriate; and the towers will be ugly and environmentally damaging. The towers will cause many millions of dollars of property value devaluation to the nearby residential properties, especially to those properties just across Surrey Drive from the tower sites, and to those properties within view of the towers.

In my August 1, 2025 letter, I requested OCPW to engage directly with the community as OCPW considers the applications. And by that, I specifically wrote that I didn't mean that OCPW and the Zoning Administrator should just hold a *pro forma* public hearing after the Planning Department has concluded its work and has prepared its own report and recommendation to the Zoning Administrator on the applications. Instead, I urged the Planning Department to hold one or more community forums, and gain a real-world understanding of residents' needs and desires. Critically, I recommended that the Planning Department engage its own independent experts and consultants to obtain unbiased expert opinions regarding the *bona fides* of the applications.

In particular, I said that the Planning Department needed to obtain an unbiased and accurate assessment from a qualified independent expert of: (1) the wireless coverage presently available and the reasons for any isolated coverage issues (e.g., topography, foliage, physical obstructions, building construction materials) and a determination whether any significant gap in coverage truly exists; (2) the reasons why neither Verizon Wireless nor AT&T Mobility has proposed collocating on any nearby existing wireless communications facilities or existing structures, such as the Pelican Hill golf course maintenance building located at 6195 Pacific Coast Highway, near the edge of the golf course and adjacent to the Pacific Coast Highway; (3) alternate site analyses for sites that may be less intrusive than the proposed sites, yet still technologically feasible to resolve any true significant gaps in coverage; (4) expert analyses of alternative technologically feasible means besides macro cell towers to resolve any significant gaps in coverage -- for instance, deploying a limited number of small cell wireless antennas mounted on existing street lamps in specific areas where cell coverage may be weak; (5) an independent landscape architect to conduct a visual analysis of the visual impact of the two proposed mono-euc cell towers on the neighborhood, using a crane test and preparing photo-simulations; and (6) an experienced independent residential land use appraiser to conduct a study of the expected impact on residential property values in the neighborhood if the two cell towers are built at the proposed sites.

I noted that most local governments who engage independent consultants to perform these independent expert reports and analyses are able to recover the costs from the applicants themselves. I advised that these expert reports should be obtained **before** the Planning Department prepares its own report and recommendation.

County Staff Failed to Retain any Independent Experts and Failed

So how did OCPW respond to my thoughtful suggestions. On August 1, 2025, I received an email from Justin Kirk, Deputy Director, Development Services, OC Public Works, stating that the County had received my correspondence with Ms. Duggan. Specifically, Mr. Kirk said: "The County is in receipt of your correspondence. Ms. Duggan has transmitted the correspondence to County Counsel and will be coordinating a response with their office." And then, radio silence. The promised response from Ms. Duggan and County Counsel never materialized.

On October 29, 2025, I wrote an email to County Counsel Leon Page, advising him that I had not received the coordinated response between OCPW and the County Counsel's office promised by Mr. Kirk. I also sought to begin a constructive dialogue with the County Attorney's office regarding the contested application. On the same day, I sent a similar email to County Supervisor Foley. Supervisor Foley promptly responded early the following morning, by email, stating that she had forwarded my email to the County Counsel, and had requested that he respond. On October 31, 2025, Deputy County Counsel Ray Diaz sent me a boilerplate email stating that I should be assured that the County's review and "will be fully compliant with applicable law and supported by substantial evidence in the administrative record."

Unsatisfied with this response, I telephoned Mr. Diaz on November 12, 2025. We spoke for about 1/2 hour, discussing the application in depth, with Mr. Diaz listening carefully and asking many questions. I explained that I like to engage in a substantive dialogue with County Staff well before the public hearing date because otherwise, in my experience, County Staff typically just rubber stamp what the wireless companies tell them, and then the zoning administrator will rubber stamp the recommendation of the County Staff. I cautioned that if this happens, this will lead to an appeal to the Planning Commission and/or the County Board of Supervisors, where we fill in the gaps in the record that County Staff failed to address, adding to the cost and unnecessary complexity and delays.

I then provided examples regarding the instant application where the applicants have failed to provide sufficient evidence or competent evidence to meet their burden of demonstrating, for instance, that these proposed towers are "needed," i.e., that there's a significant gap in coverage that these towers will resolve, and that there's no less intrusive way to provide the coverage. I explained that both Verizon Wireless and AT&T Mobility have provided propagation maps that assert that there are significant gaps in coverage in the Cameo neighborhoods, but that those maps are woefully deficient because they fail to provide sufficient information about the models they are using, the assumptions and parameters they are inputting into the model, and any real-world validation testing that has been performed to determine the predictive accuracy of the model. I cautioned Mr. Diaz that with RF propagation modeling, whoever is inputting the parameters and the data can generate whatever results they want.

In this case, I explained that the FCC National Broadband map, which is comprised of data provided by the wireless carriers twice per year, as mandated by the federal National Broadband Data Act, shows 100% outdoor mobile coverage in the Cameo neighborhoods. Thus, I said that the FCC map completely contradicts the story that Verizon and AT&T are telling County Staff. Consequently, I told Mr. Diaz that the County really should have its own independent RF expert to assess the RF coverage situation. That's exactly what I had told Ms. Duggan in my August 1, 2025 letter. I then said that we will be submitting our own RF expert report but the County still needs to have its own.

I also discussed the faux mono-eucalyptus cell tower "shedding" problem, and explained how these fake tree cell towers dump prodigious amounts of PVC waste because they degrade from UV exposure, wind, and precipitation, and the waste can be transported offsite by wind and runoff. In this particular case, given the proximity to the Pacific Ocean and the environmentally sensitive lands leading there, I said that using the fake tree plastic cloaking will create an illegal solid waste problem. Accordingly, the County needs to conduct a CEQA analysis, and should hire an independent firm to do so.

Mr. Diaz asked me to provide him with some legal cases regarding the RF coverage issue, and I told him that I would promptly send him an email. I also told him that the neighbors are not against cell towers being added. They are concerned about the location of these two ugly fake tree cell towers and the effect these towers will have on their views and their property values. I explained that, as I had explained to The Irvine Company, the towers can be located further back out of view on the golf course, and that adding an AT&T wireless facility at the golf course maintenance building and some additional antennas to Verizon's existing wireless facility at that location will likely provide the additional coverage the carriers want, and that solution likely would be acceptable to the neighborhood. Mr. Diaz said he took detailed notes on everything I said, and stated that he would speak with his client tomorrow.

On November 13, 2025, I provided Mr. Diaz with the following email:

[redacted]
From: [redacted]
To: Diaz, Ray,Zoe Berg,Robert Berg
Thu, Nov 13 at 10:42 PM

Dear Mr. Diaz. Thank you so much for taking the time to speak with me yesterday. I really appreciate your willingness to hear my "pitch" on the issues that concern my clients with regard to the pending application of Verizon Wireless and AT&T Mobility for the two 40-foot tall mono-eucalyptus cell towers across from [redacted] on the periphery of the Pelican Hill Golf Course.

Among the several significant issues we discussed are the RF propagation maps of the existing and proposed wireless coverage in the Cameo Highlands/Cameo Shores neighborhoods which the wireless carriers have prepared and are using to "prove" their "need" for these cell towers. I pointed out that the FCC maintains a National Broadband Map which shows, on a granular, street address basis, which wireless carriers, if any, provide wireless service to each

address, and describes the type and strength of the service available at the address. That data must be provided twice each year to the FCC in standardized format pursuant to the federal Broadband DATA Act of 2020, 47 U.S.C. Sections 641-646. Data accuracy and compliance is ensured by the prospect of substantial financial penalties and enforcement action by the FCC and the penalties of perjury.

The FCC National Broadband Map is accessible by the public at https://broadbandmap.fcc.gov/home. Importantly, after inputting [redacted], Corona del Mar, CA into the search bar, you will see that the entire neighborhood has 100% wireless coverage from the three major wireless carriers, including AT&T Mobility and Verizon Wireless. The FCC National Broadband Map thus presents a starkly different evidentiary picture regarding the wireless carriers' claims of "need" for these two cell towers. Remember, each of the carriers has provided the wireless coverage data that makes up the National Broadband Map to the FCC for this neighborhood, and has certified that the data are accurate under penalty of perjury. Not so for the propagation maps the carriers have submitted; they don't even bear any identification of authorship. Nor do they explain the methodology used, or provide verification of the modeling, or even the qualifications and experience of the modeler.

My clients have retained a world-class RF engineer who is preparing an expert report addressing the RF issues involved in this application. We will submit this report once the County has issued its report and recommendation in advance of the public hearing. In the meantime, has the County retained its own independent expert to assist County Staff in understanding the complex electrical engineering issues at play so that County Staff can make an informed recommendation to the Zoning Administrator?

Another important issue I raised yesterday is the serious environmental harm that occurs when faux plastic tree coverings are used to cloak cell towers in order to attempt to minimize their raw industrial ugliness, especially in residential neighborhoods. Here, the applicants are intending to build two mono-eucalyptus cell towers, which are cell towers disguised as fake plastic mono-eucalyptus trees. The problem with these fake tree cell towers is that in an effort to mitigate the inherent unattractiveness of a naked steel cell tower adorned with multiple arrays of wireless antennas, the PVC "cloaking" creates an environmental time bomb.

The fake tree cell towers have epoxy or fiberglass reinforced plastic limbs, boughs, and branches attached to the steel monopole tower. PVC leaves (typically, fake pine needles, but also, fake eucalyptus leaves, or palm fronds) are glued onto the branches. Exposed to extreme UV in the sunlight, and harsh environmental conditions -- wind and rain -- the PVC leaves rapidly degrade. They become brittle, and detach from the "tree." Depending on the weather conditions, the leaves -- or fragments -- may be carried by the wind for considerable distances before falling to the ground. The PVC leaves or fragments scatter over a broad debris field, along with broken FRP fake tree limbs or branches. Winds can carry the fallen leaves further afield. Precipitation, especially heavy rains, will wash the PVC debris into drainage basins, further pulverizing the fragments as they are carried off. The volume of PVC debris is staggeringly large. Just go to any faux tree cell tower base and look around. You will see the debris field. A 120-foot tall monopine cell tower will have over 6,000 pounds of PVC pine

needles precariously attached to it, waiting to degrade, fall, blow away, and pollute the surroundings. Mono-eucalyptus cell towers suffer the same shedding problem as monopines.

The two proposed mono-eucalyptus cell towers at issue are located at the edge of the Pelican Hills Golf Course, in very close proximity to the Pacific Ocean coastline. Indeed, the Cameo neighborhoods slope down to the ocean, and the drainage off the golf course leads to the ocean, traveling through important, environmentally sensitive zones. Siting two mono-eucalyptus cell towers -- which have known serious PVC shedding problems -- so close to critical environmentally sensitive areas leading to the Pacific Ocean -- raises very significant environmental concerns. A serious CEQA review of the project is required. Is the County conducting one or requiring one?

I have raised these and other serious issues with the pending application in an August 1, 2025 letter than [sic] I sent to Ms. Scarlet Duggan, who I understand is overseeing the project application for OCPW. I am enclosing a copy of this letter for your review.

Finally, during our conversation yesterday, I promised to send you some federal case law from the Ninth Circuit addressing the legal standard for assessing "significant gap in coverage" and the use of propagation maps. I describe below some of the key cases.

The federal case law interpreting the Telecommunications Act of 1996 ("TCA") addresses the meaning of a "significant gap in coverage." The concept of "significant gap in coverage" comes into play when a federal court considers whether a State or local governmental body's denial of a cell tower permit prohibits or has "the effect of prohibiting the provision of personal wireless services." 47 U.S.C. §332(c)(7)(B)(i)(II). "Personal wireless services" means "commercial mobile services." 47 U.S.C. §332(c)(7)(C)(i). The Ninth Circuit follows a two-pronged test to evaluate whether a permit denial amounts to an "effective prohibition" under the TCA. First, the wireless provider must show that it has a "significant gap" in service coverage in a defined area. Second, the provider must show that its proposed facility is the least intrusive technologically feasible alternative to solve the provider's significant gap in coverage. *See, e.g., T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987, 995-996 (9th Cir. 2009). "[A] locality can run afoul of the TCA's 'effective prohibition' clause if it prevents a wireless provider from closing a 'significant gap' in service coverage." *MetroPCS, Inc. v. City & County of San Francisco*, 400 F.3d 715, 731 (9th Cir. 2005), *abrogated in part on unrelated grounds in TMobile S., LLC v. City of Roswell*, 574 U.S. 293, 299 (2015). "The significant gap prong is satisfied 'whenever a provider is prevented from filling a significant gap in its *own* service coverage." *Am. Tower Corp. of City of San Diego*, 763 F.3d 1035, 1056 (9th Cir. 2014)(emphasis in original).

The Ninth Circuit holds that "'significant gap' determinations are extremely fact-specific inquiries that defy any bright-line legal rule." *Sprint PCS Assets, L.L.C. v. City of Palos Verdes Estates*, 583 F.3d 716, 727 (9th Cir. 2009), quoting *MetroPCS*, 400 F.3d at 733. **The Ninth Circuit specifically holds that a wireless carrier's presentation of its radio frequency propagation maps is not sufficient to establish a "significant gap" in coverage.** *Sprint PCS Assets*, 583 F.3d at 727 ("The district court simply declared, as a matter of fact and fiat, that there was 'a significant gap' in Sprint's coverage in the City. Sprint

defends this factual finding on appeal, arguing that its presentation of radio propagation maps was sufficient to establish a 'significant gap' in coverage. We disagree."). **The Ninth Circuit further holds that "a gap" in coverage (e.g., individual "dead spots" within a greater service area) is not sufficient to constitute a "significant gap" in coverage; the gap in coverage must be "truly significant" because the TCA does not guarantee wireless providers coverage free of small "dead spots."** *MetroPCS,* 400 F.3d at 733-734 & fn. 10. In their joint application, Verizon Wireless and AT&T Mobility each rely solely on their propagation maps to establish purported "need" for the two cell towers. The information each carrier provides with its colorful maps is laughably sparse. Neither carrier bothers to identify who prepared the maps. What qualifications does the preparer have? What job title? What educational background? What training? What experience? AT&T Mobility's submission states that its analysis is based "on our current Atoll RF Design Tool that shows the preferred design of AT&T 4G-LTE Network Coverage." That's not very helpful in the abstract. The devil is in the details. The Forsk-Atoll RF propagation modeling software is a commonly used industry software package, but it is sophisticated and requires extensive knowledge and experience to utilize it accurately and effectively. A journeyman wireless RF technician using the software will generate a propagation map of an area, but it will lack the accuracy of one prepared by a professor of electrical and computer engineering who has devoted his entire career to researching and teaching RF propagation modeling. To have any semblance of accuracy, the correct parameters must be established; the model must take into account changes in topography, foliage, physical obstructions, buildings, and the like. A propagation model is theoretical, generated by computer software. So it must be verified using real-world data such as dropped-call logs or drive tests.

Just take a look at the materials Peter Blied, the Plancom agent for the two carriers, submitted to Ms. Duggan on October 9, 2025 along with his Project Resubmittal Letter. As I noted above, the signal propagation maps from AT&T Mobility and Verizon Wireless are anonymous. Neither "report" provides any information about the assumptions used in setting up the model, the inputs used, or any efforts to verify the model against real world data. Notably, neither carrier bothers to mention the FCC National Broadband Map to which they must provide all of their nationwide network coverage biannually. As provided, the propagation maps submitted by the two carriers are completely unsubstantiated anonymous reports which are not credible evidence. My clients' expert will be telling the County this, but the County, in conducting a responsible review of the application, ought to have its own independent RF expert analyze the RF coverage situation, at the applicants' expense.

In its *Sprint PCS Assets* decision, the Ninth Circuit explored the wide range of context-specific factors that must be assessed when determining whether any purported "gaps" in a wireless provider's coverage actually constitute legally "significant gaps" under the TCA. Among the examples of specific factors that the Ninth Circuit said should be considered are: (1) whether the gap affects a significant commuter highway or railway; (2) the nature and character of the area or the number of potential users in that area who may be affected by the alleged lack of service; (3) whether facilities are needed to improve weak signals or to fill a complete void in coverage; (4) whether the gap covers well-traveled roads on which customers lack roaming capabilities; (5) whether the gap shows up on "drive tests;"

(6) whether the gap affects a commercial district; and (7) whether the gap poses public safety risk. 583 F.3d at 727, citing cases.

Verizon Wireless and AT&T Mobility offer no evidence addressing these factors. Importantly, the applicants have the burden of establishing by a preponderance of the evidence that they each have a significant gap in coverage in the Cameo Highlands/Cameo Beach neighborhoods. Yet they provide not even a scintilla of evidence. Here too, I believe it would be beneficial for the County to have its own independent RF expert weigh in.

As I explained in my conversation with you yesterday, in my experience, Planning Department staff generally do not conduct the type of "hard look" at cell tower applications that is required before they issue a staff recommendation and before the public hearing is held. In a situation where an organized group of residents objects to the proposed cell tower project -- especially when the group is represented by counsel -- this creates a rather challenging problem for the decision-maker, here, the Zoning Administrator. Often, the "hard look" is presented by the opponents shortly before or at the public hearing. The Zoning Administrator generally bends over backwards to support the Planning Department's recommendation, which may not be justified. This leads to an appeal and a *de novo* hearing. And the process may yet be repeated again before the Board of County Commissioners. My suggestion is that we try to develop a solid administrative record at this level, and I submit that this can be best achieved if County staff address our concerns before they come to a determination based largely on the applicants' submissions prior to the public hearing.

I hope you find this helpful, and I thank you again for indulging me. Best, Bob Berg.

Robert J. Berg, Esq.
Law Office of Robert J. Berg PLLC
425 Mount Pleasant Avenue
Mamaroneck, New York 10543
(914) 522-9455
robertbergesq@aol.com

Mr. Diaz did not respond to my email or follow-up our telephone conversation. No one from County Staff communicated with me in any effort to engage in any discussion about the matters I raised.

The OCPW Report Recommending that the Zoning Administrator Approve the Application is Sorely Deficient in its Analysis, Completely Ignores Residents' Concerns, and Fails to Support its Conclusion that the Project Complies with the County Ordinance.

On or about November 19, 2025, OCPW posted its Meeting Agenda for the Zoning Administrator's Public Hearing on December 4, 2025. Included in the agenda packet for the public hearing is a Report from OC Development Services/Planning to Orange County Zoning Administrator, bearing the date of the public hearing, December 4, 2025, with the subject,

"Coastal Development Permit and Use Permit PA25-0072 for two new wireless communications facilities."

The OCPW Report and Recommendation ("OCPW Report" or the "Report") is submitted by Scarlet Duggan, Land Use Manager, OC Development Services/Planning and concurred by Cindy Salazar, Division Manager, OC Development Services/Planning. The OCPW Report comprises a scant 6 pages in total. Importantly, the OCPW Report correctly recognizes that the County retains broad zoning control over the siting, design, construction, and operation of macro wireless communications facilities, including cell towers of the kind proposed by Verizon Wireless and AT&T Mobility here. The Report proclaims:

> The County retains broad land use authority to regulate the placement, construction, and modification of macro wireless communication facilities under the federal Telecommunications Act of 1996 (47 U.S.C. §332(c)(7)(A). This authority includes the ability to require discretionary permits, apply zoning, and aesthetic standards, and evaluate technical information submitted by applicants. *The County may process macro wireless communication facility applications provided the decisions are supported by substantial evidence and consistent with federal limitations.* (Emphasis added).

Report at 3.

Regrettably, OCPW has utterly abdicated its responsibilities to exercise that broad land use authority in this matter. OCPW is recommending that the Zoning Administrator approve the applications despite the obvious fact that the applications are not supported by substantial evidence at all. The woefully deficient OCPW Report proves the point. It provides a bare-bones recitation of the proposal, the location of the project, the applicants, the recommended actions, and proceeds with an extremely superficial discussion of the project's purported compliance with the general plan, zoning code, and coastal program. The Report then notes that the project deviates from the wireless ordinance design standard in two respects: (1) the project requires a 9 foot 4 inch total height for the ground-mounted equipment enclosure fence height, which exceeds the code's 6 foot maximum height; and (2) the project seeks to reduce the code's minimum 300-foot required separation between the two towers by 72% to just 84 feet, 4 inches. The Report uncritically accepts the applicants' terse explanation for the need for the variances from the design standard.

The OCPW makes 7 conclusory findings with no analysis whatsoever, and reports that a copy of the planning application and the proposed site plan were distributed for review and comment to the Orange County Fire Authority, Orange County Sheriff's Department, and the County divisions for Building and Safety, Traffic, and Environmental Planning. OCPW reports that it reviewed the comments made and where appropriate, addressed them.

In another absolute derogation of duty, OCPW declares the proposed project as Categorically Exempt (Class 3) from CEQA. OCPW does so in spite of the information that I had presented to Ms. Duggan and Mr. Diaz demonstrating that the faux tree "camouflage" that the County requires these cell towers to be covered with is composed of PVC plastic that will degrade rapidly due to intense UV exposure and the harsh environmental conditions, OCPW

states that the proposed construction consists of new small facilities and structures and installation of small new equipment and facilities in small structures, and finds that there are no sensitive environmental resources, no historic resources, and no unusual circumstances related to the site, and the proposed project is not located near a scenic highway or on a hazardous waste site, and would not have a cumulatively significant impact.

Ms. Duggan, who signed and submitted the OCPW Report, has known that a considerable number of residents of Cameo Highlands, in particular, have been opposed to this application since it was first discussed at a "Proposed Cell Tower Town Hall" Zoom meeting held on March 13, 2025. This Town Hall Zoom meeting was organized by the Board of the Cameo Community Association, prompted by the Association's professional management company which had been asked by Plancom, the agent for the two wireless carriers, to set up the meeting. During this Town Hall meeting, Plancom and representatives of Verizon Wireless and AT&T Mobility presented their proposals to the many participating residents. The AT&T representative, Matthew Bradford, claimed that AT&T became interested in locating a cell tower to serve the Cameo Community Association neighborhoods after many residents purportedly complained to higher-ups at AT&T about the quality of the wireless coverage. Mr. Bradford claimed that these neighborhoods were a "dead zone" for AT&T's wireless service, and AT&T selected the proposed cell tower site specifically to improve cell service for the neighborhoods. Verizon Wireless's representative also contended that its network experiences a significant coverage gap in Corona Del Mar. She claimed that Verizon Wireless decided to seek to increase its wireless coverage in these neighborhoods after the company regularly received many complaints from residents, emergency service workers, and regular city staff. The Verizon Wireless representative said that the company wants to help serve the community. The area is unique and there are not a lot of commercial site options, no industrial sites, and the terrain is challenging. She contended that the proposed site is the only non-residential location available and it is the least intrusive location available to solve Verizon Wireless's coverage gap. She ended by saying that Verizon Wireless takes "painstaking pride" in finding the best location. A resounding chorus of "boos" arose from the Zoom audience.

A question and answer period followed. Numerous residents vociferously objected to the proposals for the two fake eucalyptus tree-covered cell towers based on health concerns, aesthetics, concerns about property devaluation, and sufficient satisfaction with the existing wireless coverage in the neighborhood. A few residents spoke in favor of the project, asserting that the existing wireless coverage is inadequate. Notably, when one male resident challenged the representatives of the wireless carriers, stating that the proposed cell towers were intended to benefit primarily The Irvine Company -- and the players on its golf course -- both the Verizon Wireless and the AT&T representatives disputed the charge, insisting that the project is intended to serve only the Cameo Community Association neighborhoods, not The Irvine Company and its golf course.

In the days following this Town Hall meeting, certain residents repeatedly contacted Ms. Duggan with questions and concerns about the proposed project, and frequently requested updates as to the status of any application filings. From the outset, Ms. Duggan was well aware of the significant level of resident opposition to the project, even well before the applicants filed.

Soon after I was retained as counsel by a group of Cameo Highlands residents to assist them in their efforts to oppose the applications, I too spoke with Ms. Duggan. I specifically suggested to Ms. Duggan that the County needed to hire its own independent experts to assist in the review of the application. I identified RF coverage, visual impact, and environmental issues arising from the degradation that occurs to the PVC faux eucalyptus-leaf camouflage that will shroud the two monopole cell towers as substantive areas that require expert consultation to aid the County Staff and the Zoning Administrator in reaching a determination of the cell tower applications. The reason for the need for outside independent experts is that County Staff lack the expertise internally to assess the following key issues: (1) the applicants' "needs analysis," -- *i.e.,* whether Verizon Wireless or AT&T Mobility actually do have significant gaps in wireless coverage in the Cameo Community Association neighborhoods; (2) assuming for the sake of argument that the applicants prove by a preponderance of the evidence that significant gaps do exist in these neighborhoods, the proposed "solution" -- two 40-foot tall faux mono-eucalyptus monopole cell towers at the edge of the Cameo Highlands neighborhood is the least intrusive technologically feasible means to "solve" the coverage gaps; (3) the two 40-foot tall fake eucalyptus tree cell towers don't degrade the neighborhood aesthetic with an industrial eyesore that will devalue property values in this luxury residential community; and (4) the faux mono-eucalyptus "camouflaging" material, made out of PVC plastic, will or will not shed prodigious amounts of PVC plastic waste as the PVC fake leaves degrade in the harsh environmental conditions due to high UV exposure, precipitation, heat/cold, and wind, and whether such solid waste pollution presents a significant environmental hazard that is both illegal under federal and state law and not subject to mitigation.

Once the application was filed with the County, I followed up with the forementioned letter to Ms. Duggan on August 1, 2025, with copies sent to County Supervisor Foley and other senior County officials. And later, as noted above, I communicated with Deputy County Counsel Diaz by email and by telephone, expressing my concerns that the County needed to conduct a thorough vetting of the application.

The OCPW Report does not describe or even mention anywhere the substantial community opposition to the cell tower project, which dates back as far as the first public disclosure of the project. The OCPW fails to acknowledge communications from residents or reports that residents currently have adequate cell coverage from Verizon Wireless and AT&T Mobility in their neighborhoods. Likewise, the OCPW Report completely ignores my detailed, substantive August 1, 2025 letter to Ms. Duggan in which I strongly suggested that the Planning Department hold one or more community forums to gain a real world understanding of residents' needs and desires. *See* Berg Aug. 1, 2025 Ltr. to Duggan at 3. I also urged the Planning Department to engage its own independent experts and consultants to obtain unbiased expert opinions regarding the *bona fides* of the application, and I stated that the Planning Board should hire an independent expert RF engineer, an independent landscape architect to examine the impact of the fake tree-covered cell towers on the neighborhood character and aesthetics and the viewsheds, and an independent environmental expert to review the likely environmental impact from the inevitable degradation of the PVC-clad faux eucalyptus camouflage cover the cell towers, pieces and fragments of which will continuously fall off of the towers, break apart, and pollute the surrounding areas as illegal solid waste, before being carried off by runoff into the drainage basins and storm sewers. *Id.* at 3-6. I specifically emphasized the need for the Planning

Department to explore the reasons why neither Verizon Wireless nor AT&T Mobility has proposed collocating on any existing wireless communications facilities or existing structures such as the Pelican Hill golf course maintenance building at 6195 Pacific Coast Highway. I explained the reasons why Verizon Wireless's and AT&T's application fails to justify any RF "need" for the two cell towers, and pointed out with substantial evidence the facts that neither AT&T nor Verizon Wireless have significant gaps in coverage that they misleadingly claim in their applications. *Id.* at 14-16.

Thus, it's inexplicable and stunning that the OCPW report presented to the Zoning Administrator simply accepts at face value Verizon Wireless's and AT&T's anonymous, unsubstantiated RF propagation maps as (1) demonstrating that "[t]he location of the proposed wireless communications facilities was selected to provide wireless coverage in an area where Verizon Wireless and AT&T have identified a systemic weakness in their coverage for users in that area;" *see* OCPW Report at 2; and (2) "[t]hrough signal propagation mapping data, the applicant demonstrated that the gaps in wireless network coverage can be resolved with two towers at lower height rather than co-locating on one tower at a taller height;" *see id.*

I had provided OCPW on August 1 with reference to publicly available data presented on the FCC's National Broadband Map in which these wireless carriers' very own self-reported wireless coverage data that they provide twice each year to the FCC, as mandated by federal law, the federal Broadband DATA Act, completely contradicts both carriers' claims that they have systemic weakness in their coverage for users in that area. Verizon Wireless and AT&T Mobility each report to the FCC that they offer 100% wireless coverage throughout the Cameo Community Association neighborhoods, for both outdoor stationary and in-vehicle coverage. This coverage map information has been verified to be accurate by officers of Verizon Wireless and AT&T Mobility under penalty of perjury, and the companies are subject to enforcement actions and steep penalties by the FCC should the information be shown to be inaccurate. *See* 47 C.F.R. §1.7004(d). Additionally, the companies must each have a qualified electrical engineer so certify. *Id.* ("All providers also shall submit a certification of the accuracy of its submissions by a qualified engineer."). I pointed this out to Ms. Duggan in my August 1 letter and to Mr. Diaz in my telephone conversation and follow on email. Berg Aug. 1 Ltr. at 10-11. Apparently, this critical evidence contradicting the applicants' "need" analysis has been entirely cast aside without a word in the OCPW report.

So too, as noted above, OCPW totally ignored the testimonies of the very residents Verizon Wireless and AT&T Mobility are purportedly trying to help -- they don't want the "help," but OCPW doesn't care. Notably, PlanCom, the project agent for Verizon Wireless and AT&T Mobility, stated in its "Project Justification Letter," dated May 8, 2025:

> In discussions with the Cameo Highlands HOA, who will not take an official position of [sic] the project, we have also learned from many residents that critical gaps in coverage do exist here and they are often left without any wireless coverage if the power and Wi-Fi options fail.

There are two major problems with this statement. First, it constitutes hearsay which would be clearly inadmissible in court. While a zoning permit public hearing has more lenient

evidentiary standards than a formal court action, this self-serving assertion by the project manager for the applicants lacks any features that suggest or support its veracity. The statement fails to identify any specific residents who supposedly complained to the agent about existing wireless coverage in the neighborhood with the two carriers, when those conversations took place, or what exactly was said.

Second, the Board of Directors of the Cameo Community Association ("BOD") now takes the position that it strongly opposes the proposed cell tower project. The Cameo Community Association represents all of the homeowners in both Cameo Highlands and Cameo Shores. The upper neighborhood of Cameo Highlands, of course, is the neighborhood closest to the proposed site of the cell towers, and will be most directly impacted. The Cameo Shores neighborhood is below Pacific Coast Highway and slopes down to the beach and oceanfront. The properties in Cameo Shores will be the farthest from the cell towers and will not likely be impacted by the viewshed degradation nor suffer as much property devaluation.

The Board of Directors of Cameo Community Association Strongly Opposes the Project

The BOD has set forth its strong objection to the proposed project in a Letter the BOD sent to Ms. Duggan and Mr. Diaz, dated November 21, 2025. The BOD "initially took a neutral position on the proposal. In light of new information filed with the County by the applicants, however, we have significant concerns that challenge our previous position and we are now strongly opposed to the project." *See* Comment Letter in Opposition #19, posted on Orange County website tab for December 4, 2025 public hearing. The BOD explains that it has recently learned that the applicants intend to each have backup generators to power their towers in case of power failures and each generator will have its own diesel fuel storage tank, with the Verizon Wireless one being 125 gallons and the AT&T Mobility one being 150 gallons, along with backup batteries. The BOD is extremely concerned about Verizon Wireless and AT&T Mobility embedding "large, combustible industrial equipment such as diesel generators, diesel fuel storage and batteries within the tree-lined, brush-covered environment that surrounds the proposed location." The BOD points out that "all of Cameo Highlands, most of Pelican Hill, all areas east of Cameo Shores Road and much of greater Corona Del Mar are located in a Very High Fire Hazard Severity Zone as recently designated by the California State Fire Marshall [sic]."

The BOD further highlights:

> [T]his is the highest fire risk designation the state can assign. New fire maps, increasing the severity of both our neighborhood's and Pelican Hill's designations, were just published earlier this year. The tragic Palisades fire, which occurred in a neighborhood similar to ours in climate, vegetation and topography, showed the existential threat posed by fire to California's dense coastal communities. Accordingly, it would be inappropriate and irresponsible for the two cell towers and their accompanying generators, batteries, and fuel storage facilities to be located at the proposed site within the tree-lined, brush-covered environment that surrounds the proposed location.

The BOD emphasizes that the Orange County Fire Authority ("OCFA"):

> which recognizes the magnitude of this risk, will require substantial fuel modification, including 'removal of undesirable species . . . or a separation of combustible vegetation for a minimum distance of 100 feet from the location of the structure' [emphasis added]. No definition of "undesirable" or "combustible" has been provided. If implemented, however, vegetation removal and/or a minimum 100 foot separation could significantly harm our Community, possibly resulting in the decimation of the tree line that borders our neighborhood to the north, one of our Community's most distinctive natural features, and/or the removal of vegetation and trees from our Community park on Surrey Drive. This is unacceptable to the Community.

The Zoning Administrator should give great weight to the BOD's statement strongly opposing the project. The BOD represents the property owners in the entire Cameo Community Association. The BOD changed its position on the project from "neutral" to "strongly opposed" once it learned of the serious public safety risk the project poses to persons and property in the Cameo Community Association. With memories of the tragic nearby Palisades fire still fresh in their minds, the BOD appropriately urges caution before permitting inherently fire-prone cell towers and their accessory equipment, including 275 gallons of stored diesel fuel, to be installed just across the street from a densely populated residential neighborhood located in a severe fire risk zone.

The BOD is also properly concerned that the OCFA's requirement that there be "removal of undesirable species . . . or a separation of combustible vegetation for a minimum distance of 100 feet from the location of the structure" will result in the denuding of the attractive border vegetation at the top of Surrey Drive and will eliminate the very foliage the fake tree camouflage covering the cell towers is supposed to blend so seamlessly into, according to the applicants and Ms. Duggan. Thus, the two 40-foot tall fake, plastic mono-eucalyptus industrial monstrosities will be much more prominent eyesores in the community than the applicants claim.

On December 2, 2025, I submitted an expert report prepared by Dr. Kent Chamberlin, Professor and Chair Emeritus of the University of New Hampshire Department of Electrical and Computer Engineering. Dr. Chamberlin is a world-renowned expert in radio frequency (RF) propagation and modeling, as his accompanying CV attests. Dr. Chamberlin has analyzed the meager RF "justification" materials submitted by Verizon Wireless and AT&T Mobility in support of their applications, and has concluded that they are wholly unsubstantiated, fundamentally flawed, and completely unreliable as substantial evidence in support of the applications. In Dr. Chamberlin's expert opinion, neither Verizon Wireless nor AT&T Mobility has met their burdens of proving by a preponderance of the evidence that each wireless carrier has a significant gap in coverage in the Cameo Community Association neighborhoods.

Moreover, even assuming for the sake of argument that a significant gap in coverage exists, neither carrier has proven that this amalgam of two fake eucalyptus tree-cloaked cell towers is the least intrusive means feasible to solve such a gap. Dr. Chamberlin has explained how boosters and amplifiers can be used to enhance cell signals in any isolated spots where coverage is weak. Small cell wireless communication facilities can also be strategically deployed on some existing utility poles in the public rights of way.

Further, the applicants have utterly failed to exhaust their obligation to explore co-location opportunities on nearby existing wireless communications facilities or structures, including specifically, the cell tower located at the maintenance building at the Pelican Hill golf course, at 6195 Pacific Coast Highway. That cell tower currently hosts Verizon Wireless antennas. There is no reason that AT&T Mobility cannot add wireless antennas to the existing tower, or if necessary, extend the tower as of right pursuant to Section 6409 of the federal Spectrum Act. Alternatively, the site is large enough to host a second cell tower upon which AT&T Mobility and/or Verizon Wireless can install antennas. This site is located close to and with good lines of sight to the target areas within the Cameo Community Association. Moreover, the site is away from dense residential neighborhoods, and is well-screened by mature foliage. The present cell tower has not caused any controversy with nearby residents. I urge the Zoning Administrator to study Dr. Chamberlin's expert report carefully and to accept his learned opinions and conclusions.

Dr. Chamberlin's expert report completely undermines the premise for this project -- there is no RF "need" for this project. Even assuming applicants could show such a need (and they cannot and have not), the applicants have failed to explore co-location opportunities, alternative sites, and alternative less intrusive technologies. Thus, applicants have utterly failed to carry their evidentiary burden under the County Code to secure the required permits.

The OCPW Recommendation to Issue a Finding that the Project is Categorically Exempt from CEQA as a Class 3 New Construction or Conversion of Small Structures Pursuant to CEQA Guidelines Section 15303 is Wrong and is not Based on Substantial Evidence in the Record

OCPW Staff recommend in the Report that the Zoning Administrator find that the project is categorically exempt from the California Environmental Quality Act (CEAQ), based on the Class 3 New Construction or Conversion of Small Structures exemption, pursuant to CEQA Guidelines Section 15303. Report at 1. This Class 3 categorical exemption applies to the construction of new small facilities and structures, and installation of small new equipment and facilities in small structures. According to OCPW Staff:

> 3. There is no evidence indicating that the proposed project falls into any of the categories identified in CEQA Guidelines Section 15300.2 that would prevent the County from relying on a categorical exemption. There are no sensitive environmental resources on site, there are no historic resources on site, there are no unusual circumstances, the proposed project is not located near a scenic highway or on a hazardous waste site, and would not have a cumulatively significant impact.
>
> 4. Compatibility - The location, size, design and operating characteristics of the proposed use will not create unusual conditions or situations that may be incompatible with other permitted uses in the vicinity.
>
> 5. The application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.

These findings are grossly deficient. They are utterly bereft of any factual support or of description of any analysis conducted by OCPW Staff or by any of the agencies or divisions to which a copy of the planning application and the proposed site plan were distributed for review and comment. OCPW Staff assert that relevant comments from the agencies or divisions have been incorporated into the Conditions of Approval in the proposed Resolution, but OCPW Staff have improperly avoided the fulsome discussion required.

What's particularly galling with OCPW Staff's recommendation for application of the categorical Class 3 exemption is that OCPW Staff never mention the serious environmental pollution problem the use of the faux mono-eucalyptus "camouflage of the two monopole cell towers inevitably will create. In my August 1 letter, I explain at considerable length, at pages 4 through 6 that the fake eucalyptus leaves are comprised over PVC plastic. As I have learned through my considerable experience fighting irresponsible and unnecessary cell tower permit applications throughout the United States, using fake tree camouflage for monopole steel cell towers is a terrible idea. Besides looking incredibly ugly and unnatural - fake plastic leaves and epoxy or fiberglass reinforced plastic tree branches or limbs do not fool the birds, the bees, or sighted human beings. But the real nightmare begins when these fake trees are planted in concrete and are exposed to harsh environmental conditions. The fake PVC leaves, though supposedly treated with UV inhibitors, fare poorly when exposed to the sun. High-intensity UV exposure causes the PVC leaves to degrade quickly. Couple that with high winds and heavy precipitation and the fake trees shed their faux PVC leaves, with the plastic leaves falling over a wide debris field around the base of the cell tower. Depending upon the intensity of the winds or storms which often precipitate the detachment of the PVC leaves from their attachment points on the tower, the PVC leaves may fall along with a chunk of an epoxy or FRP branch that breaks off, or else, some sprigs of PVC leaves may rip off a branch and sail off in the wind, or perhaps a leaf or a fragment of a leave is torn away and carried off.

Every fake tree cell tower covered with PVC leaves is surrounded by a PVC-laden debris field. Fallen PVC-leaves, pieces of broken FRP branches and limbs, all will be scattered around the tower base. Worst, of course, are the dreaded monopines -- the hideous fake pine tree-covered cell towers. The PVC fake pine needles, which are glued onto the fake FRP branches, degrade easily in the UV rays. The PVC pine needles become exceptionally brittle and fragment into small particles which are transported far and wide by wind and run off, and become embedded in the soil, if not carried away in runoff. Each monopine sheds several thousand pounds of PVC garbage over the course of a year or two or three. But the PVC mono-eucalyptus cell towers, such as the two proposed by Verizon Wireless and AT&T Mobility, are nearly as bad. One of my clients will do a "show and tell" at the Public Hearing, demonstrating mono-eucalyptus PVC solid waste that he, his wife, and his daughter picked up from debris fields surrounding each of three local mono-eucalyptus cell towers. Each mono-eucalyptus cell tower had its own debris field. Depending upon how the debris detaches from the cell tower and the size of the debris, the debris can wind up anywhere. Large chunks, of course, will mostly drop down and remain near the base of the tower. But the problem is with the small pieces -- especially the fragments -- the single PVC mono-eucalyptus leaf or the leaf fragment. These small pieces detach the easiest and are carried away the farthest by wind and runoff. The small pieces fragment into smaller pieces, smashing as they are transported away in drainage basins

and in storm sewers, and eventually become microplastics. Given the proximity of the cell tower sites to the environmentally sensitive coastal zone and the ocean, the PVC fragments from the mono-eucalyptus camouflaging will ultimately wind up in the ocean, polluting the waters with microplastics and PVC fragments. Congratulations OCPW Staff for protecting the environment!

This frightening scenario is not speculative. It occurs on every fake plastic camouflaged mono-BS cell tower the wireless carriers and cell tower developers build. But the wireless industry never tells the planners about the serious solid waste pollution problem they will unleash. And the planners never bother to investigate. Here, however, I expressly warned Ms. Duggan about this serious environmental problem with the two mono-eucalyptus cell tower proposal in my August 1, 2025 letter. That letter was also copied to Justin Kirk, Deputy Director, Development Services, OCPW, Tim Corbett, Chief Deputy Director, Development Services, OCPW, and Kevin Onuma and Edward Frondoso, County Engineers. These key staff members at OCPW were thus notified of the serious environmental problem posed by these two proposed mono-eucalyptus cell towers. No one, however, bothered to go on a field trip like my clients to see what happens to these towers in the real world. And no one bothered to even mention this environmental issue when simply rubber-stamping recommendation for the Class 3 categorical exemption under CEQA for this project to the Zoning Administrator.

The Zoning Administrator, however, now must face the real world facts. The two proposed cell towers will dump PVC solid waste and FRP solid waste materials in an uncontrolled and illegal manner in violation of State and federal law. There is no way to mitigate this illegal dumping because much of the PVC solid waste will be in fragments and particles too small to recover and will carried off-site by wind and run-off into storm sewers and drainage basins. Even in the one rare case in which I am involved where the regulatory agency has imposed a condition on the permit requiring the carrier to "clean up" the site twice during the snow-free season, the carrier simply ignores the condition, substantial quantities of PVC debris are visible around the tower from the public right of way, and the bulk of the debris undoubtedly has blown off site or run off onto private properties or into streams or drainage basins and can never be recovered.

Accordingly, on this record, the Zoning Administrator must reject the OCPW Staff recommendation to find that the project is Class 3 categorically exempt. Instead, the Zoning Administrator must order a legitimate and independent CEQA review to be conducted before issuing a determination on the application. The evidence plainly demonstrates "unusual circumstances" that preclude application of the Class 3 categorical exemption.

The California Court of Appeals decision in *Don't Cell Our Parks v. City of San Diego*, 21 Cal. App. 5th 338 (Ca. Ct. App. 4th Dist. 2018), is instructive and not to the contrary. In *Don't Cell Our Parks*, the Court of Appeals upheld the trial court's determination that the City's approval of a 35-foot tall mono-eucalyptus cell tower and a 220 square foot equipment enclosure for installation and operation in a City neighborhood park was, among other things, categorically exempt from CEQA under the Class 3 categorical exemption. Don't Cell Our Parks ("DCOP"), a non-profit organization which opposed the cell tower, challenged the application of the Class 3 categorical exemption, claiming that a new stand-alone utility does not qualify for the Class 3 exemption, the "unusual circumstances" exception applies, and the placement of the project in a

dedicated park precludes use of the categorical exemption. The Court found that the such a facility does fit the bill for a Class 3 exemption as a matter of law without much analysis, i*d.* at 360, (a conclusion which some other California courts have made, but with which I do not agree nor concede). Nevertheless, what's relevant here is the Court's analysis on the application of the "unusual circumstances" exception.

The Court noted: "The Guidelines do not define 'unusual circumstances.' That requirement was presumably adopted to enable agencies to determine which specific activities -- within a class of activities that does not normally threaten the environment -- should be given further environmental evaluation and hence excepted from the exemption.'" *Id.,* quoting *San Francisco Beautiful v. City and County of San* Francisco, 226 Cal. App. 4th 1012 1023 (2014). DCOP argued that the project's location within a dedicated park is an unusual circumstance. The City provided evidence, however, that at least 37 similar facilities exist in dedicated parks, suggesting to the Court that the construction of another such tower is not unusual. *Id.* at 361. Moreover, the Court found that even assuming that the project is unusual, for the exception to apply, DCOP must also show a reasonable possibility that the unusual circumstances will cause a significant environmental effect. *Id.*, citing *Berkeley Hillside Preservation v. City of Berkeley*, 60 Cal. 4th 1086, 1105 (2015).

The Court found that the faux tree and equipment enclosure are located so that the project would result in minimum disturbance to environmentally sensitive lands because minimal grading would be required to accommodate the caisson and footings for the faux tree, and trenching for the conduits between the faux tree and the equipment enclosure as well as the conduit for power would occur immediately adjacent to the main walking path from the street through the park. Additionally, the project site consisted of mostly disturbed habitat and any impact was considered to be minimal. Moreover, the biological resource report found no mitigation was required for possible impacts to biological resources. Accordingly, the Court concluded that the evidence showed that the City proceeded in the manner required by law when it determined that a reasonable possibility did not exist that the project would have a significant effect on the environment. DCOP did not challenge that evidence that the project will not significantly adversely impact the environment. Rather, DCOP asserted that the project had an adverse environmental impact on aesthetics, on the park, and on recreational uses of the park. *Id.* at 361-362.

Here, we challenge the proposed two mono-eucalyptus cell towers as presenting a direct environmental assault because of the virtual certainty that they will almost immediately begin shedding prodigious quantities of PVC fake eucalyptus leaves and FRP branches, twigs, and limbs as a consequence of exposure to harsh environmental conditions. As described in detail above, the fallen PVC debris will fragment, scatter, and run off site, due to wind and precipitation run-off. The PVC debris is unrecoverable, and will eventually wind up in the ocean just to the west of the installation sites, after leaving a residue of microplastics in the surrounding lands. My clients will present actual samples of the PVC debris gathered from existing mono-eucalyptus cell towers in the local area. The debris and illegal solid waste pollution is an inherent problem that every mono-eucalyptus cell tower experiences when installed in the real world environment with harsh and changeable environmental conditions as are present at the Pelican Hill golf course site. Thus, the proposed project clearly presents "unusual

circumstances" within the meaning of the Class 3 categorical exceptions. The Zoning Administrator must reject the OCPW Staff recommendation to issue the categorical Class 3 CEQA exemption, and instead, find that a full CEQA review must be conducted.

The OCPW Staff Report Fails to Justify the Minimum Separation of Towers Distance Variance and the Ground-mounted Equipment Enclosure Fence Height Variance

The OCPW Staff Report acknowledges that the applicant requests two significant deviations from site development standards set forth in the Wireless Ordinance, namely: (1) a 72% reduction in the minimum separation between the two towers from 300 feet to 84 feet, 4 inches; and (2) an increase in the height of the ground-mounted equipment enclosure fence from the 6 foot maximum to a height of 9 feet, 4 inches. OCPW Staff recognize that the Wireless Ordinance requires the applicant to demonstrate "to the satisfaction of the approving authority" that: (1) adherence to the applicable zoning regulations will make the project technically infeasible; and (2) the proposed wireless communications facility is the least intrusive means by which to locate and design the facility to the extent feasible.

It's wonderful that OCPW Staff can cite the relevant provisions of the Wireless Ordinance. It would be far better if Staff would actually enforce those provisions, rather than paying lip service to them. Sadly, OCPW Staff has done the latter.

As to the fence height variance, OCPW just states a conclusion: "It would not be feasible to provide sufficient clearance to maintain the equipment while providing adequate security to the unmanned site without exceeding the 6' maximum design standard requirement per the Wireless Ordinance." That's it. What equipment is 6 feet high? No specifics are provided. Is alternative equipment available that is less than 6 feet high? Likely not asked of the applicant. Why is a 9 foot, 4 inch fence needed if the equipment is only 6 feet high? That's 3 feet, 4 inches of space between the top of the equipment and the fence height. Why does the whole fence have to be 9 feet, 4 inches high? OCPW completely drops the ball. And why can't a different fence design be utilized?

OCPW's acceptance of the "separation between towers" variance is even more disgraceful. The 300-foot separation zone exists in the County Code to prevent a dense aggregation of disgusting industrial cell towers, especially in one of the most desirable residential neighborhoods in the world. Even though a 300-foot separation zone is hardly enough -- these unnecessary towers should be set back on The Irvine Company's golf course -- out of the viewshed of the adjacent residential neighborhoods -- if at all -- at least OCPW Staff should insist that the applicant follow the Code. Instead, without any substantive analysis once more, OCPW Staff make the completely unsubstantiated statement: "Through signal propagation mapping data, the applicant has demonstrated that the proposed location of the two wireless towers will significantly improve wireless coverage of the two carriers' networks."

Obviously, adding new unnecessary cell towers to an area will likely improve wireless coverage up to a point. But OCPW completely failed to analyze the essential question -- are these two new cell towers "needed?" That is to say, do these two carriers each have a significant gap in coverage in the area? And the answer to that is a resounding no as my August 1, 2025

letter clearly demonstrated. My letter -- including its recommendation that the County engage an independent RF engineer to vet the applicant's completely bogus RF propagation maps -- should have at least spurred OCPW Staff to do some modicum of due diligence. Evidently, that was too much for my clients and the other residents of Cameo Community Association to expect for their tax dollars. Instead, OCPW Staff just rubber-stamped the self-serving useless unverified, unexplained and contradicted material provided by applicant. With yesterday's (December 2, 2025) submission of Dr. Kent Chamberlin's expert report, the Zoning Administrator can no longer accept at face value the applicant's claim that the two new cell towers are needed to fill significant gaps in each of the carriers' wireless networks. The applicant most definitely has failed to prove by a preponderance of the evidence this fundamental fact, and the opponents, who have no duty to prove the opposite, have done so anyway.

Thus, the underpinnings for even considering the two towers, no less lessening the separation requirement, do not exist. But let's assume, for argument's sake, that there is a need for two towers. Why should the 300 foot separation distance be minimized? OCPW Staff assert the reduction is necessary so that one taller tower (with both carriers co-locating on the taller tower) can be replaced with the two shorter towers. This presupposes that there was a proposal on the table for a single taller tower -- which, of course, would require a height variance, and as a compromise, OCPW Staff has agreed to a compromise, with two shorter towers instead, but with a much shorter separation distance than allowed by Code. First, there is no tall tower application on the table and there never was. The only application is for the two 40-foot tall towers. So the tall tower hypothetical is a red herring. For OCPW to say "Adherence to applicable zoning regulations will make the project technically infeasible" for this reason is simply a lie.

OCPW Staff then assert: "The proposed wireless communications facility is the least intrusive means by which to locate and design the facility to the extent feasible." OCPW Staff explain this assertion as follows:

> The applicant's proposal of two towers at a height meeting the underlying zoning designation maximum height of 40' and located in closer proximity than the 300' separation is less intrusive because proximity will allow for use of a shared equipment enclosure and shorter towers. Through signal propagation mapping data, the applicant demonstrated that the gaps in wireless network coverage can be resolved with two towers at lower height rather than co-locating on one tower at a taller height. The height of the proposed faux eucalyptus towers blends better into the existing foliage. Additionally, the proposed towers are located less than 300' apart to feasibly share an equipment enclosure to be least intrusive in design while still providing adequate signal strength to close the wireless coverage gap for the two carriers.

Boy does this justification have problems! Let me count the ways! First, as explained above, the applicant's signal propagation mapping data is so fundamentally flawed and contradicted by real world data and the FCC National Broadband Map that, as Dr. Chamberlin, in his expert opinion, concludes, it cannot be relied upon or used as evidence. Second, the use of faux eucalyptus "camouflage" will create a serious illegal solid waste pollution problem and create environmental havoc, and the County cannot authorize a new project that it knows will create prodigious amounts of illegal solid waste which will be discharged willy-nilly into an

environmentally sensitive coastal zone and wind up as microplastics in the ocean. Third, because these ridiculous unneeded cell towers would be located in an extremely high risk fire zone, the surrounding foliage will have to be stripped away as per the OCFA determination. Thus, the hideous, polluting faux eucalyptus cell towers would now dominate the deforested landscape, not blend in harmoniously with the now non-existent foliage. And finally, locating these two ugly fake tree cell towers so closely together magnifies their monstrous appearance as one giant zit rather than spreading out the acne across the face.

Separating the two towers by 700 feet -- and having two equipment enclosures would clearly be less visually intrusive than having the two towers only 84 feet, 4 inches apart with one equipment enclosure. Even more importantly, OCPW never bothered to check out alternative less visually intrusive locations. The one just down the road -- the site of the golf course maintenance building at 6195 Pacific Highway is indeed a splendid alternative location which has not been explored by OCPW or the applicant. OCPW's recommendations on the variances, therefore, must be rejected by the Zoning Administrator.

The OCPW Staff's Recommended Findings that the Proposed Permit Meets the Compatibility and General Welfare Requirements of the Zoning Code Must be Rejected

OCPW Staff recommend findings that the proposed permit meets the compatibility and general welfare requirements of the Zoning Code. OCPW Staff state: "Compatibility - The location, size, design and operating characteristic of the proposed use will not create unusual conditions or situations that may be incompatible with other permitted uses in the vicinity." OCPW Staff add: "General Welfare - The application will not result in conditions or circumstances contrary to public health and safety and the general welfare." OCPW Staff provide no support or justification for these findings. As to compatibility, the mono-eucalyptus cell tower PVC shedding fiasco most certainly creates unusual conditions or situations that are incompatible with other permitted uses in the vicinity. The two mono-eucalyptus cell towers will create an endless PVC solid waste pollution source and debris field that cannot be fully recoverable by the very nature of the PVC degradation process. Each fake tree covering contains one thousand pounds or more of PVC-clad fake eucalyptus leaves and FRP fake eucalyptus branches, twigs, and limbs. Creating an environmentally hazardous PVC debris field next to a children's park and a lovely residential community can hardly be characterized as "compatibility" under the Zoning Code. Likewise, creating an environmentally hazardous PVC debris field is contrary to public health and safety and the general welfare.

Corona del Mar is one of the world's most desirable communities. Its residences, splayed along the slopes descending to the magnificent Pacific Ocean command some of the highest residential prices in the United States. The residences in the Cameo Highlands neighborhood -- the ones closest to the two proposed cell towers, are more modest in size, and the lots are equally modest, compared to some of the splendid oceanfront estates in the Cameo Shores neighborhood below, some of which are valued in the $30 million to $70 million range. Even so, residences in the Cameo Highlands neighborhood generally average about $6 million each, an astonishingly high number, even for California. To the extent the two proposed cell towers will be visible from the residential properties in Cameo Highlands, their unsightliness, coupled with the

undesirability of living next to two radiation-transmitting cell towers, each hosting 12 wireless antennas and one, a microwave dish, will seriously reduce the market value of nearby properties.

And they will be highly visible. At the March 13, 2025 Cameo Community Association "Proposed Cell Tower Town Hall" on Zoom, at which representatives of AT&T Mobility and Verizon Wireless presented their proposed plans for the two fake eucalyptus tree cell towers, Verizon Wireless showed multiple photo-simulations of the cell towers from various sites within Cameo Highlands. As is always the case when wireless carriers are trying to "sell" neighborhood residents on the purported unobtrusiveness of faux tree cell towers, the photos were taken from vantage points that deceptively minimized the prominence of the faux tree cell towers in the photo-simulations. Nonetheless, the views of the fake "mono-euca" PVC-cloaked cell towers -- looking across the street from Surrey Drive and one street further from Dorchester Road -- are dystopian. Notably, Verizon Wireless did not present photo-simulations from the entrance to Cameo Highlands where the faux tree cell towers will be the very first structures that drivers see when they drive into Cameo Highlands. What an unwelcome sight!

Residents of Cameo Highlands enjoy magnificent views over their lovely neighborhood of the surrounding mountains and the Pacific Ocean. That's why their neighborhood is considered to be one of the world's most sought after and highly-valued. The purpose of Orange County's Wireless Communications Facilities on Private Property Ordinance, as expressly stated in Section 7-9-109(a) is "to protect and promote public health, safety, community welfare and aesthetic qualities of the unincorporated area." Allowing Verizon Wireless and AT&T Mobility to erect two 40-foot tall plastic-covered fake mono-euc cell towers just above this extraordinarily desirable residential neighborhood would devastate the community welfare and aesthetic qualities of the unincorporated area," in utter derogation of the declared purpose of the ordinance.

Moreover, beyond severely damaging the neighborhood character and aesthetics, residents' views, and their quality of life, the installation of the two cell towers so close to these extremely expensive and alluring properties will cause a serious drop in property values in the neighborhood, with an especially severe decline in value heaped upon the properties closest to the cell towers and those from which the towers are visible.

Numerous peer-reviewed published studies in academic journals have reached the totally unremarkable and expected conclusion that the value of residential properties decreases significantly as the distance of the property from a cell tower decreases. These studies yield consistent results in residential markets worldwide -- in the United States, in Africa, and in Oceania. Moreover, the studies find that the magnitude of the property devaluation is significantly greater if the cell tower is visible from the residential property. Several representative academic studies are presented below. In Affuso, E., Reid Cummings, J. & Le, H., "Wireless Towers and Home Values: An Alternative Valuation Approach Using a Spatial Econometric Analysis.," *J Real Estate Finan Econ* **56**, 653–676 (2018), https://doi.org/10.1007/s11146-017-9600-9, the authors studied sales of residential houses in Mobile, Alabama. They found that properties located within 0.72 km (2,362 ft) of the closest cell tower declined in value by 2.46% on average. Moreover, the valuation declines were as

large as 9.78% for homes where the tower was visible compared to those outside the visibility range. The negative effect generally diminished with increasing distance from the tower.

A 2019 study in *The Empirical Economics Letters* examined 34,335 multiple listing service ("MLS") sales of residential homes in Savannah, Georgia during the period 2007 to 2016. The authors found that homes close to towers sell for a discount of up to 7.6% (within 500 feet of the cell tower), with the effect disappearing at a distance of 1,500 feet from the tower. The cell tower's negative impact on house price valuation was exacerbated in a declining real estate market (such as occurred in 2007-2011); the discount required to sell rose to 8.8% for houses within 500 feet of a cell tower. *See* Beck, Jason, "The Disamenity Value of Cellular Phone Towers on Home Prices in Savannah, Georgia." *The Empirical Economics Letters*, 17 (2019).

In Rajapaksa, D., W. Athukorala, S. Managi, P. Neelawala, B. Leen, V.-N. Hoang, C. Winston, "The impact of cell phone towers on house prices: evidence from Brisbane, Australia," *Environmental Economics and Policy Studies*, 20, 211-224 (2017), the authors studied property transaction data collected from two suburbs within the Brisbane City Council, adopting a spatial hedonic property valuation model. The estimated models were statistically significant, and the results revealed that proximity to cell phone towers negatively affects house values, decreasing as the distance from the tower increases.

Another recent study, Koech Cheruiyot, Nosipho Mavundla, Mncedisi Siteleki, and Ezekiel Lengaram, "Impact of proximity to cell phone tower base stations on residential property prices in the City of Johannesburg, South Africa," *International Journal of Housing Markets and Analysis* (2024) 17 (6): 1422–1442, https://doi.org/10.1108/IJHMA-12-2023-0167, focuses on Johannesburg, South Africa. The authors examined residential sales between the period 2010 and 2020 in certain suburbs to determine whether proximity to a cell tower had any effect on sales price. The authors broke down the sales by distance of the residence from the cell tower in four increments: 0-250 m; 251-500 m; 501-750 m; and 751-1,000 m. 79,691 residential sales transactions were analyzed. The authors concluded:

> The results show a significant impact on the proximity of CPTBS [cell phone tower base stations] to the residential property sale prices. However, the impact of CTPBSs on residential property prices depends on the distance of such CTPBSs from the residential properties. The closer to the CTPBSs a residential property is, the higher the impact that CTPBSs has on its residential sale price. In other words, the impact of proximity of CTPBBs on the residential sale prices seems to decrease as the distance from the CPTBSs increases. This was evident from the estimation results that was based on different interval distance bands of 0–250 m, 251–500 m, 501–750 m and 751–1,000 m.

The results of the academic studies simply validate common sense. When faced with the choice of buying a residence, rational consumers will demand a substantial price discount before they will purchase a house close to an ugly cell tower which the consumers may fear will negatively impact their and their family's health. They will demand a greater discount if the cell tower is visible from the residential property. As the distance from the cell tower increases (and the visibility of the cell tower diminishes, the amount of the discount needed to close the deal decreases and eventually disappears. OCPW and the Zoning Administrator must be acutely

aware of enormous damage to property values the two proposed cell towers may cause in this extremely high-end neighborhood.

The substantial devaluation of adjacent and nearby residential real estate values caused by the immediate presence of the two monstrous fake eucalyptus tree cell towers amounts to unusual conditions or situations that are incompatible with other permitted uses in the vicinity -- like enjoying life in a residentially zoned area and playing in the children's park. And the cell towers thus create conditions that are contrary to the general welfare. The economic damage to the value of these homes is likely to reach into the hundreds of millions of dollars. The Zoning Administrator would be wise to factor in the economic cost of approving this unneeded and irresponsible application.

For the foregoing reasons, the reasons set forth in my August 1, 2025 letter (which are incorporated herein), and the reasons set forth in the expert report of Dr. Kent Chamberlin, dated December 2, 2025, I respectfully request that the Zoning Administrator deny the application.

Respectfully submitted,

/s/ Robert J. Berg

cc: Ray Diaz, Esq.