

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: PA25-0072 Public Hearing December 18, 2025 Why the Proposed Cell Towers Require CEQA Review
Date: Friday, December 12, 2025 2:14:51 PM
Attachments: [REDACTED].pdf
[REDACTED].pdf

Hi Steven and Ryan,

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.

Thank you,

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


From: Steven Krar [REDACTED]
Sent: Thursday, December 11, 2025 8:18 PM
To: Duggan, Scarlet <scarlet.duggan@ocpw.ocgov.com>; Salazar, Cindy <Cindy.Salazar@ocpw.ocgov.com>
Cc: Don Chesebrough [REDACTED]
Subject: Re: PA25-0072 Public Hearing December 18, 2025 Why the Proposed Cell Towers Require CEQA Review

Attention: This email originated from outside the County of Orange. Use caution when opening attachments or links.

Dear Zoning Commission and associates:

The purpose of this submission attached, and also set out below, is enumerate and identify the facts and environmental effects in the Administrative Record to support a "fair argument" that an EIR is required under California law, due to the existence significant non-FCC-preempted environmental concerns that are sufficient to support an Administrative and Judicial ruling that CEQA applies.

Steven and Ryan Krar
[REDACTED]

December 11, 2025

Zoning Commission / Planning Department
scarlet.duggan@ocpw.ocgov.com
cindy.salazar@ocpw.ocgov.com
OC Development Services / Planning
601 N. Ross Street
Santa Ana, CA 92701

Memorandum: Why the Proposed Cell Towers Require CEQA Review

Re: PA25-0072 Public Hearing December 18, 2025 at 1:30 PM, Orange County Center, 425 W. Santa Ana Boulevard, Santa Ana, CA, to Express Opposition to Proposed Verizon Wireless and ATT communications facilities at Pelican Hill Golf Club – Administrative Record Submission (Including Attached Findings & Conclusions on Health, Financial, and Legal Risks); Subject: Inapplicability of CEQA Categorical Exemption — Proposed Cell Towers Adjacent to Sarrey Park

Dear Members of the Zoning Commission:

The purpose of this submission is enumerate and identify the facts and environmental effects in the Administrative Record to support a "fair argument" that an EIR is required under California law, due to the existence significant non-FCC-preempted environmental concerns that are sufficient to support an Administrative and Judicial ruling that CEQA applies.

BRIEF CONCLUSION SUPPORTED BY DETAILED DISCUSSION:

The proposed cell tower project within 100 feet of Sarrey Park clearly triggers CEQA review. The towers' height, visual intrusion, cumulative impacts, and proximity to a children's recreational area, combined with the on-site fuel storage and associated fire risk, constitute **tangible, non-speculative environmental effects**. Taken together, these factors provide a reasonable basis to assert that the project may have a significant effect on the environment, satisfying the "fair argument" standard established under CEQA Guidelines § 15064(c) and relevant case law. Accordingly, any attempt to claim a ministerial exemption or issue a negative declaration without full environmental review would likely be legally vulnerable. CEQA review, at a minimum through an Initial Study, is therefore warranted to identify and, if necessary, mitigate these potential impacts. The effect of CEQA applicability would require the consideration of alternative locations for these cell towers, to mitigate the injury to Sarrey Park and other non-FCC environmental concerns.

Ms. Scarlet Duggan
Ms. Cindy Salazar
Page 2

DETAILED DISCUSSION:

I. CEQA Applicability of the Proposed Cell Tower Project

The proposed installation and operation of one or more cell towers within 100 feet of Sarrey Park, a publicly accessible children's recreational area, constitutes a "project" under the California Environmental Quality Act (CEQA) and is not exempt from CEQA review. Under Public Resources Code § 21065 and CEQA Guidelines § 15378, a "project" is defined as an action which may result in a physical change in the environment, directly or indirectly, and which involves discretionary approval by a public agency. The proposed towers involve both discretionary permitting and construction activities that could alter the environment, thereby satisfying this statutory definition.

Even when routine or technical permits are involved, CEQA requires environmental review if there is a "fair argument" that the project may result in significant environmental effects¹. These effects need not be limited to direct physical impacts; indirect, cumulative, aesthetic, recreational, and hazard-related impacts are also relevant². Accordingly, the project cannot rely on presumptive ministerial exemptions or categorical exemptions reserved for minor alterations³.

II. Facts and Environmental Effects Supporting a "Fair Argument"

The following facts and environmental effects provide a reasonable basis for a fair argument that the proposed project may have significant environmental impacts:

Project Scope and Location

1. Construction of one or more new cell towers within 100 feet of Sarrey Park, a children's recreational area.
2. Towers exceed the height of surrounding structures, making them highly visible from nearby residences and parkland.
3. Discretionary approvals required from local planning or zoning authorities.

Physical and Visual Impacts

4. Towers and associated equipment (antennas, cabinets, fencing, lighting, signage) significantly alter the skyline and community character.
5. Direct visual intrusion into Sarrey Park, impacting users' recreational experience and aesthetic enjoyment.
6. Visual effects extend to surrounding residential areas and open spaces, altering views and neighborhood aesthetics.

Cumulative and Indirect Effects

7. Multiple towers or upgrades in the area could result in **cumulative visual, noise, and land-use impacts**.
8. Potential indirect effects on **future development patterns** and park use.
9. Minor effects on local vegetation and wildlife in tower footprints or access paths.

Land Use and Property Value Considerations

10. Aesthetic changes could influence **property values**.
11. Potential conflicts with zoning, design standards, or park-related planning goals.

Public Perception and Social Considerations

12. Public concern regarding safety and environmental quality, even with RF emissions within FCC limits, is relevant under CEQA Guidelines § 15064(c).
13. Local opposition may create **cumulative social impacts** and demand mitigation.
14. Being directly adjacent to a children's park **enhances community concern** and perceived impact.

Procedural / Discretionary Factors

15. Discretionary approvals from planning commission or city council **trigger CEQA review**.
16. Any exemptions or negative declarations may be vulnerable if a reasonable basis exists to believe significant impacts may occur.

Fire Risk from Fuel Storage

17. Backup generators require diesel or gasoline storage on-site.
18. **Fuel storage within 100 feet of the park increases risk** to children, park users, vegetation, and wildlife in the event of fire.
19. Even with compliance with fire codes, residual fire risk remains and is an appropriate CEQA consideration.
20. Cumulative fire risk exists if multiple nearby sites maintain fuel storage.

III. Conclusion

In conclusion, the proposed cell tower project falls squarely within CEQA's scope. While challenges based solely on RF health are legally constrained by federal preemption, indirect, cumulative, and discretionary considerations provide sufficient grounds for CEQA review. By framing the project in this manner, a strong argument exists that environmental review is required, and any attempt to claim exemption could be successfully contested.

Endnotes

1. CEQA, Pub. Resources Code § 21065; CEQA Guidelines § 15378(a).
2. CEQA Guidelines § 15064(i); *Friends of Mammoth v. Board of Supervisors*, 8 Cal.3d 247 (1972).
3. CEQA Guidelines § 15064(d); *Laurel Heights Improvement Assn. v. Regents of Univ. of California*, 47 Cal.3d 376 (1988).
4. CEQA Guidelines §§ 15301–15305 (Class 1–5 categorical exemptions).
5. 47 U.S.C. § 332(c)(7)(B)(iv); *City of Rancho Palos Verdes v. Dept. of Telecomm.*, 2010 Cal. App. LEXIS 1980 (Cal. Ct. App. 2010).
6. CEQA Guidelines § 15126 – hazards and hazardous materials (fire risk).
7. *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority*, 57 Cal.4th 439 (2013) – challenge of negative declarations.

Respectfully submitted by Steven and Ryan Kray

Home Office Phone: [REDACTED]
Home office email: [REDACTED]
Personal email: [REDACTED]

Mr. Kray is no longer practicing law and will only provide consulting services on a fee for service basis. His California State Bar and CPA licenses are currently inactive. This email, while it should be considered confidential, has no attorney-client privilege protection unless it is directed to, from or by another law firm or attorney as part of their confidential communications and/or privilege. No legal or tax advice is intended to be given or offered and any advice or commentary given cannot and should not be used or relied upon as legal or tax advice.