



**Interoffice Memorandum**

**DATE:** July 15, 2020

**TO:** Mayor Jerry L. Demings  
-AND-  
Board of County Commissioners

**FROM:** Jon V. Weiss, P.E., Director *JW.*  
Planning, Environmental and Development  
Services Department

**CONTACT PERSON:** Eric Raasch, DRC Chairman *ER*  
Development Review Committee  
Planning Division  
(407) 836-5523

**SUBJECT:** July 28, 2020 – Public Hearing  
Mary D. Solik, Doty Solik Law, P.A.  
West Orange Environmental Resources C&D Disposal &  
Recycling Facility / Communication Tower Planned  
Development  
Case # LUP-19-01-044 / District 1  
(Related to APF-19-08-288 – Consent Item)

The West Orange Environmental Resources C&D Disposal & Recycling Facility / Communication Tower Planned Development (PD) is located at 7902 Avalon Road, or generally north of Schofield Road and west of Avalon Road. The applicant is seeking to rezone 44.02 gross acres from A-1 (Citrus Rural District) to PD (Planned Development District) to allow for the use of an existing landfill and a new 140-foot tall monopole communication tower.

On June 5, 2020, the Planning and Zoning Commission (PZC) recommended approval of the request, subject to conditions. A community meeting was not required for this application.

Finally, the required Specific Project Expenditure Report and Relationship Disclosure Forms have been completed in accordance with the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, and copies of these and the PD/LUP may be found in the Planning Division for further reference.

**ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan (CP) and approve the West Orange Environmental Resources C&D Disposal & Recycling Facility / Communication Tower Planned Development / Land Use Plan (PD/LUP) dated “Received October 4, 2019”, subject to the conditions listed under the PZC Recommendation in the Staff Report. District 1**

Attachments  
JVW/EPR/jhs

**GENERAL INFORMATION**

**APPLICANT** Mary D. Solik, Doty Solik Law, P.A.

**OWNER** OCE West Orange, LLC

**PROJECT NAME** West Orange Environmental Resources C&D Disposal & Recycling Facility / Communication Tower Planned Development (PD)

**HEARING TYPE** Planned Development – Land Use Plan (PD-LUP)

**REQUEST** **A-1 (Citrus Rural District) to PD (Planned Development District)**

*To rezone 44.02 gross acres from A-1 (Citrus Rural District) to PD (Planned Development District) to allow for the use of an existing landfill and a new 140-foot tall monopole communication tower.*

**LOCATION** 7902 Avalon Road; generally north of Schofield Road and west of Avalon Road.

**PARCEL ID NUMBERS** 29-23-27-0000-00-008

**TRACT SIZE** 44.03 gross acres

**PUBLIC NOTIFICATION** The notification area for this public hearing was 1-mile [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One thousand three hundred twenty-five (1,325) notices were mailed to those property owners in the mailing area. A community meeting was not required for this application.

**PROPOSED USE** Existing Landfill and new 140' monopole communication tower.

**STAFF RECOMMENDATION**

**Development Review Committee – (February 12, 2020)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of West Orange Environmental Resources C & D Disposal & Recycling Facility – Communication Tower Planned Development / Land Use Plan (PD/LUP), dated “October 4, 2019”, subject to the following conditions:**

1. Development shall conform to the West Orange Environmental Resources C&D Disposal & Recycling Facility / Communication Tower Land Use Plan (LUP) dated "Received October 4, 2019," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received October 4, 2019," the condition of approval shall control to the extent of such conflict or inconsistency.
  
2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.
  
3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
  
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to

disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.

5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
7. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S.
8. The proposed development is adjacent to an existing and permitted City of Orlando/Orange County/Conserv II Rapid Infiltration Basin (RIB) site. The design and permitting (stormwater, etc.) for the proposed development shall take into account the groundwater mounding produced by the adjacent RIBs when loaded at full permitted capacity and during wet weather conditions. At the time of construction plan submittal, coordinate with OCU to obtain information on the mounding produced by the RIBs, and submit geotechnical information and stormwater pond design calculations for use in coordinating with Conserv II.
9. Development shall be in accordance with Orange County Code Section 38-1236, as may be amended from time to time.
10. Chain link fencing and opaque wall systems are prohibited.

**IMPACT ANALYSIS**

**Overview**

Through this request, the applicant is seeking to construct a 140-foot tall communication tower on .034 acres on the southern boundary of the subject property, along Schofield Road. The subject property is currently the location of a landfill which will remain.

The proposed development program is compatible with existing development in the area which contains single-family residential subdivisions with lot sizes ranging between 60' and 115' in width. County development standards require a minimum of 700 feet of separation from existing residential properties, this request provides 1,500 feet of separation from the nearest residential properties.

**Land Use Compatibility**

The proposed development program is consistent with the Horizon West - Town Center policies and Code criteria, is compatible with existing development in the area, and would not adversely impact any adjacent properties.

**Site Analysis**

	Yes	No	Information
Rural Settlement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Joint Planning Area (JPA)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Overlay District Ordinance	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Airport Noise Zone	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Code Enforcement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

**Comprehensive Plan (CP) Consistency**

The subject property has an underlying Future Land Use Map (FLUM) designation of Village (V) indicating the property is within Horizon West. More specifically, the property is within the Town Center of Horizon West and is designated as Open Space on the Horizon West Special Planning Area Land Use Map. The proposed PD zoning district and development program of a communication tower is consistent with the FLUM designation, therefore a CP amendment is not necessary. Additionally, the project is consistent with the following CP policies:

**GOAL FLU2** states that Orange County will encourage urban strategies such as infill development, coordinated land use and transportation planning, and mixed-use development, which promote efficient use of infrastructure, compact development and an urban experience with a range of choices and living options.

**FLU8.1.1** states that the zoning and future land use correlation shall be used to determine consistency with the Future Land Use Map. Land use compatibility, the location, availability and capacity of services and facilities, market demand, and environmental features shall also be used in determining which specific zoning district is most

appropriate. Density is restricted to the maximum and minimum allowed by the Future Land Use Map designation regardless of zoning.

**OBJ FLU8.2** states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

**FLU8.2.1** states that land use changes shall be required to be compatible with existing development and development trend in the area. Performance restrictions and/or conditions may be placed on property through the appropriate development order to ensure compatibility. No restrictions or conditions shall be placed on a Future Land Use Map change.

**FLU8.2.11** states that compatibility may not necessarily be determined to be a land use that is identical to those uses that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well its contribution toward the Goals and Objectives in the CP. The CP shall specifically allow for such a balance of considerations to occur.

**SITE DATA**

<b>Existing Use</b>	Landfill
<b>Adjacent Zoning</b>	N: A-1 (Citrus Rural District) (1957) E: A-1 (Citrus Rural District) (1957) W: A-1 (Citrus Rural District) (1957) S: A-1 (Citrus Rural District) (1957)
<b>Adjacent Land Uses</b>	N: Single Family Residential / Farmland E: Golf Course W: SR 429 S: Landfill

**APPLICABLE PD DEVELOPMENT STANDARDS**

Landfill Setbacks

North:	50 ft.
East:	200 ft.
South:	150 ft.
West:	50 ft.

**SPECIAL INFORMATION**

**Community Meeting Summary**

A community meeting was not required for this application.

**Environmental**

If any waste is found during the cell tower excavation then comply with the guidelines established in the most recent edition of, "Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida published by the Florida Department of Environmental Protection".

Existing Landfill - This is on the site of the West Orange Environmental Resources C&D Disposal & Recycling Facility.

Compliance of Permit Conditions - The applicant for Development of this area for a cell tower shall be responsible to comply with all of the related solid waste management facility permit conditions of approval.

Regulatory Compliance - This review does not release the applicant from complying with all other Federal, State, and Local rules and regulations. If this review conflicts with rules and regulations of any other Agency, Department or Division, the permittee must comply with the most stringent requirements.

**Transportation / Concurrency**

Installation of a communication tower does not require a Capacity Encumbrance review.

**Water / Wastewater / Reclaim**

	<u>Existing service or provider</u>
Water:	Orange County Utilities
Wastewater:	Orange County Utilities
Reclaimed:	Orange County Utilities

**Schools**

Orange County Public Schools (OCPS) reviewed the request and determined that it will not impact public school capacity.

**State of Florida Notice**

Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.



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**Specific Project Expenditure Report and Relationship Disclosure Form**

The original Specific Project Expenditure Report and Relationship Disclosure Form are currently on file with the Planning Division.

**ACTION REQUESTED**

**Planning and Zoning Commission (PZC) Recommendation – (June 5, 2020)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of West Orange Environmental Resources C & D Disposal & Recycling Facility – Communication Tower Planned Development / Land Use Plan (PD/LUP), dated “October 4, 2019”, subject to the following conditions:**

1. Development shall conform to the West Orange Environmental Resources C&D Disposal & Recycling Facility / Communication Tower Land Use Plan (LUP) dated "Received October 4, 2019," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received October 4, 2019," the condition of approval shall control to the extent of such conflict or inconsistency.
2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.

3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
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5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
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7. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who

exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S.

8. The proposed development is adjacent to an existing and permitted City of Orlando/Orange County/Conserv II Rapid Infiltration Basin (RIB) site. The design and permitting (stormwater, etc.) for the proposed development shall take into account the groundwater mounding produced by the adjacent RIBs when loaded at full permitted capacity and during wet weather conditions. At the time of construction plan submittal, coordinate with OCU to obtain information on the mounding produced by the RIBs, and submit geotechnical information and stormwater pond design calculations for use in coordinating with Conserv II.
9. Development shall be in accordance with Orange County Code Section 38-1236, as may be amended from time to time.
10. Chain link fencing and opaque wall systems are prohibited.

### **PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS**

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested West Orange Environmental Resources C & D Disposal & Recycling Facility – Communication Tower Planned Development / Land Use Plan (PD/LUP). No members of the public were present to speak on this request.

Staff indicated that one thousand three hundred twenty-five (1,325) notices were sent to property owners extending beyond 1-mile surrounding the property, and that staff received two responses: one (1) was in favor of the request, and one (1) was opposed to the request.

After a short discussion, a motion was made by Commissioner Dunn, and seconded by Commissioner Pena to recommend APPROVAL of the requested West Orange Environmental Resources C & D Disposal & Recycling Facility – Communication Tower Planned Development / Land Use Plan (PD/LUP) dated October 4, 2019, subject to the ten (10) conditions listed in the staff report. The motion carried on a 9-0 vote.

**Motion / Second**

*Jimmy Dunn / Nelson Pena*

**Voting in Favor**

*Jimmy Dunn, Nelson Pena, JaJa Wade, Carlos Nazario, Diane Velazquez, Gordon Spears, Evelyn Cardenas, Mohammed Abdallah, and Eddie Fernandez*

**Voting in Opposition**

*None*

**Absent**

*None*

LUP-19-01-044



Subject Property

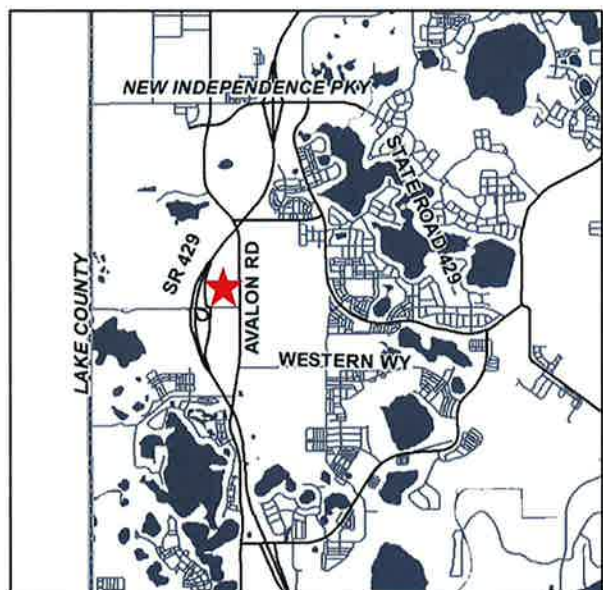


Subject Property

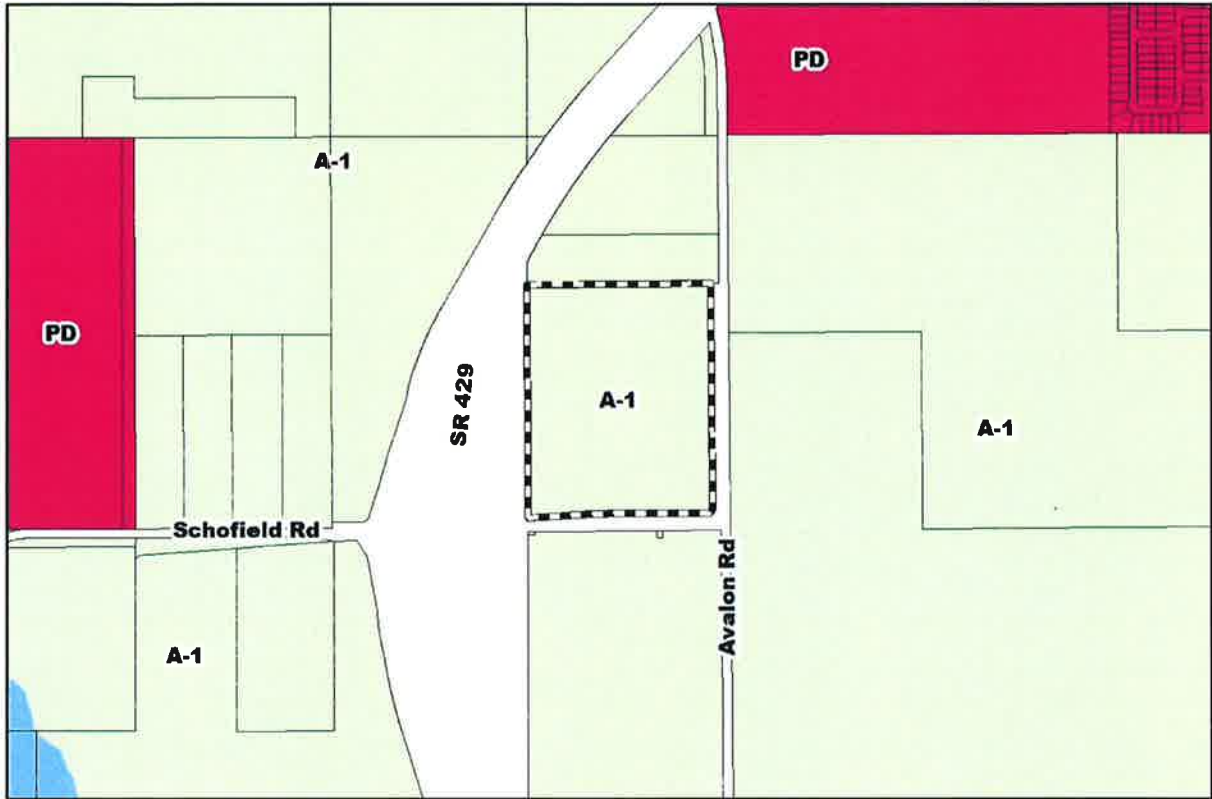
**Future Land Use Map**

**FLUM:** Village (V), Town Center Special Planning Area, Open Space District  
**APPLICANT:** Mary Solik, OCE West Orange, LLC.  
**LOCATION:** Generally located North of Schofield Road / East of SR 429 / West of Avalon Road  
**TRACT SIZE:** 44.02 gross acres  
**DISTRICT:** # 1  
**S/T/R:** 29/23/27

1 inch = 1,042 feet



LUP-19-01-044



 Subject Property



 Subject Property

### Zoning Map

**ZONING:** A-1 (Citrus Rural District) to PD (Planned Development District)

**APPLICANT:** Mary Solik, OCE West Orange, LLC.

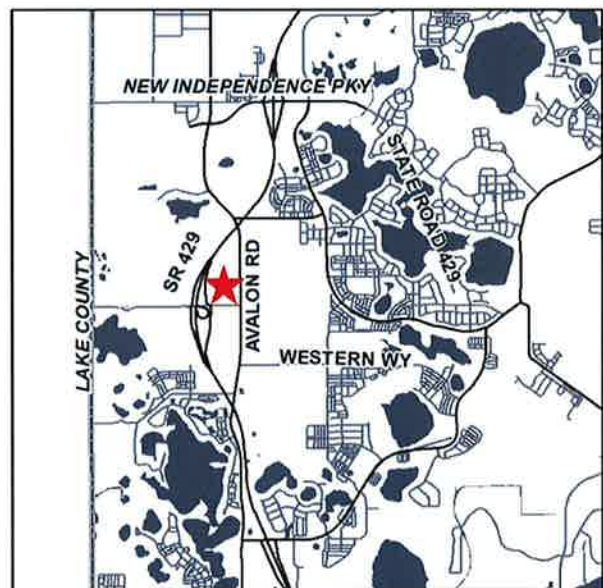
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**DISTRICT:** # 1

**S/T/R:** 29/23/27

1 inch = 1,042 feet



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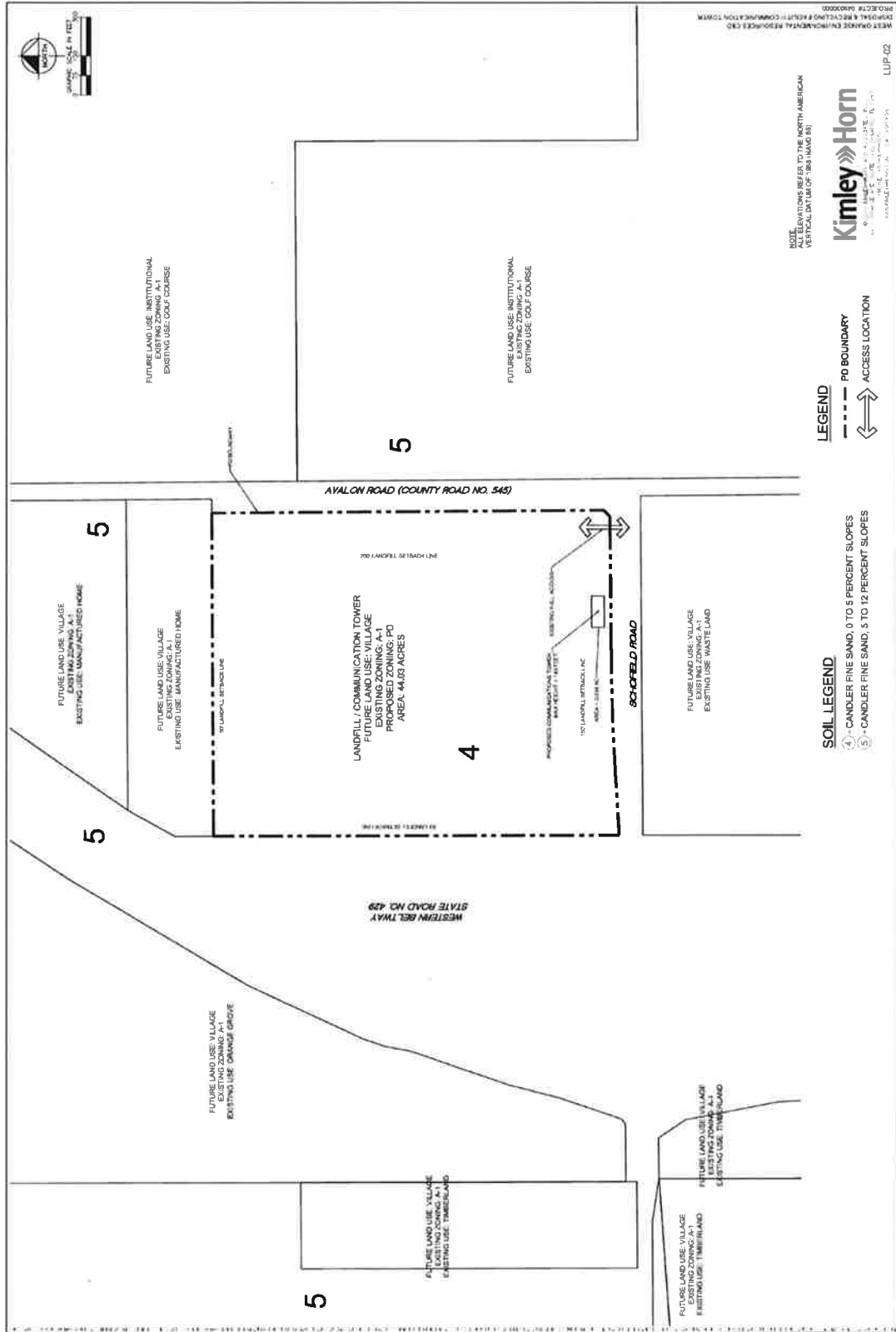
 Subject Property



1 inch = 833 feet



# West Orange Environmental Resources C&D Disposal & Recycling Facility / Communication Tower PD / LUP





# Notification Map

