

APPROVED

BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

APR 08 2008 *JN/SG/BS*

RESOLUTION

of the

ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS

regarding

ENHANCED REQUIREMENTS FOR PERMITS AND APPROVALS

FOR CERTAIN DEVELOPMENT ACTIVITY WITHIN THE PINECASTLE JEEP RANGE

Resolution No. 2008-M-11

WHEREAS, in 1943, the U.S. Government leased approximately 12,500 acres of land in Orange County, which it called the Pinecastle Jeep Range, for use as a gunnery and demonstration range for testing and troop instruction in methods of tactical bombing, strafing, air-to-ground rocket firing, high-explosive bombing, and gunfire attacks;

WHEREAS, in 1944 and 1945, the U.S. Government used the Pinecastle Jeep Range for the purposes for which it was leased in 1943;

WHEREAS, two years after the conclusion of World War II, the U.S. Government terminated all leases on the Pinecastle Jeep Range, and performed, or caused to be performed, only a partial cleanup of unexploded ordnance and exploded ordnance debris that had accumulated there during its use as a bombing and gunnery range;

WHEREAS, the area formerly known as the Pinecastle Jeep Range is more particularly shown and depicted at **Exhibit "A,"** attached hereto and incorporated herein;

WHEREAS, the Pinecastle Jeep Range is currently owned by numerous and diverse public and private interests;

WHEREAS, substantial amounts of unexploded ordnance have recently been discovered in areas within the Pinecastle Jeep Range;

WHEREAS, the Orange County Board of County Commissioners, pursuant to its home rule powers and statutory authority, hereby determines that the presence of unexploded ordnance, on and under the soil and on and under the bottom of water bodies at the Pinecastle Jeep Range, presents a serious hazard and risk to the health, safety, and welfare of the residents, property owners, workers, and the general public who may disturb such ordnance, whether accidentally or intentionally;

WHEREAS, the United States Army Corps of Engineers (“ACoE”) has been tasked by Congress with performing investigations to locate unexploded ordnance left in the wake of the World War II-era use of the Pinecastle Jeep Range;

WHEREAS, the ACoE presently estimates that it will take approximately two years to complete its investigations, which will be more intense where historical records and current surveys indicate greater clustering of ordnance at the Pinecastle Jeep Range and less intense in areas where records and surveys indicate lesser clustering or use;

WHEREAS, it is anticipated that during the ACoE’s investigations and subsequent remediations (as may be required or necessary), owners or occupants of property within the Pinecastle Jeep Range and their agents will continue to apply to Orange County for permits or approvals for Development Activity (as defined herein below);

WHEREAS, the scope and intensity of the ACoE’s investigations in various areas of the Pinecastle Jeep Range are subject to change as the ACoE proceeds, depending on the discovery of historical records or ordnance;

WHEREAS, the enhanced requirements imposed on Development Activity by this Resolution are similar to and supplement, and are intended to be similar to and supplement, the enhanced requirements imposed on building activity by the Building Official in a March 20, 2008, Memorandum concerning building activity within the Pinecastle Jeep Range, issued pursuant to his authority as a local Building Official; and

WHEREAS, a copy of the Building Official’s March 20, 2008, Memorandum regarding the Pinecastle Jeep Range is attached hereto and incorporated herein as **Exhibit B.**”

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Definitions. The following terms shall have the following meanings for the purposes of this Resolution:

“*Development Activity*” means any action within the portion of the Pinecastle Jeep Range lying within the unincorporated area of Orange County that is otherwise regulated by Orange County relative to the development, construction, improvement, remediation, or restoration of real property that results in, or is likely to result in, any disturbance of the surface of the ground or the bottom of any water body or water course,

including without limitation site preparation, clearing and grubbing, grading, or excavation of any kind, except “Development Activity” does not mean any action that is subject to permitting through the Orange County Division of Building Safety and that is therefore subject to the authority of the Building Official.

“*Munitions Survey*” means a geophysical investigation conducted by a person or entity licensed and qualified in the detection, removal, and disposal of munitions and ordnance upon or underneath the ground surface or water body bottom using magnetometric, electromagnetic, or other appropriate technologies.

“*Pinecastle Jeep Range,*” or “*Range,*” means that certain real property used by the U.S. Government for munitions practice during and after World War II, as more particularly shown and depicted at **Exhibit “A,”** attached hereto and incorporated herein.

“*RI/FS*” means remedial investigation/feasibility study as contemplated in the federal Comprehensive Environmental, Response, Compensation and Liability Act (“CERCLA”), and the Superfund Amendments and Reauthorization Act (“SARA”), as amended.

“*Satisfactory Completion*” means the completion of a Munitions Survey evidencing that no suspected ordnance has been detected, or, if suspected ordnance has been detected, evidencing that ordnance is not actually present or, if actually present, has been removed from the property and properly disposed of.

“*Site-Appropriate*” means, with reference to a Munitions Survey, the type of investigation deemed appropriate by the Orange County Administrator (or his or her designee), based on evidence informing the ACoE’s RI/FS, evidence uncovered or gathered during the RI/FS, and/or the results of other Munitions Surveys commenced or

concluded on adjacent property. (By way of illustration but not limitation, if the ACoE suspects 37-mm shells may be present in a portion of the Range (hypothetical Zone A), but does not believe such shells are present or may be found in another portion of the Range (hypothetical Zone B), the County Administrator may, in his or her discretion, determine that a Munitions Survey not calibrated to detect 37-mm shells in Zone B may be a Site-Appropriate Munitions Survey.) It is expected that the County Administrator's determination of what constitutes "Site-Appropriate" will evolve with or depend upon relevant factors, including but not limited to the ACoE's RI/FS and with results obtained from other Munitions Surveys.

Section 2. Site-Appropriate Munitions Survey Requirement. No permit or approval for Development Activity shall be issued or further processed unless and until the applicant has provided appropriate Orange County staff with evidence of satisfactory completion of a Site-Appropriate Munitions Survey. Prior to undertaking a Munitions Survey, the applicant shall be responsible for obtaining a determination from the County Administrator that it is Site-Appropriate.

Section 3. Waiver of Munitions Survey Requirement. The manager of any Orange County division from which a permit or approval for Development Activity is sought may grant a waiver of the Munitions Survey requirement if satisfied that the Development Activity for which the permit or approval is sought will not result in the disturbance of the soil or the bottom of a water body or that the soil or the bottom of the water body has been previously disturbed through Development Activity. Such a waiver shall bind only the Orange County division which issued the waiver, and shall not apply

against a different division or preclude the manager of a different division from not granting a waiver that may be sought for the Development Activity.

Section 4. Waiver of Conservation Ordinance Requirements for ACoE's RI/FS. Notwithstanding any provision of this Resolution to the contrary, the ACoE shall not be subject to the provisions of the Conservation Ordinance, codified at Chapter 15, Article X of the Orange County Code, with respect to activities that directly support the RI/FS within the Pinecastle Jeep Range and which are not reasonably anticipated to permanently impact any conservation area, as the term "conservation area" is defined in Chapter 15, Article X.

Section 5. Appeal to Development Review Committee; Appeal of DRC Decision to Board of County Commissioners; Challenge of Board of County Commissioners' Decision; Building Official Decisions Unaffected.

(a) Any person aggrieved by a decision of a manager of an Orange County division relative to this Resolution may appeal such decision to the Development Review Committee of Orange County ("DRC"). Such an appeal shall be filed in letter form to the Chairman of the DRC requesting a hearing. Such an appeal shall be filed within thirty (30) days of rendition of the decision by the manager. The appeal shall include a summary of the decision being appealed and the basis of the appeal.

(b) Any decision of the DRC relative to this Resolution may be appealed to the Board of County Commissioners by submitting a letter to the Chairman of the DRC. Such an appeal shall be filed within thirty (30) days of rendition of the decision by the DRC. If the decision of the DRC being appealed does not otherwise require a Board of

County Commissioners public hearing under the Orange County Code, then the appeal shall be promptly forwarded to the Board of County Commissioners for consideration.

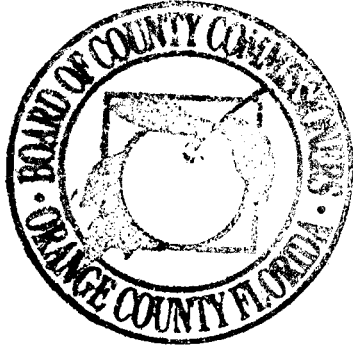
(c) Any person aggrieved by a decision of the Board of County Commissioners regarding a final decision under this Resolution may file a petition for a writ of certiorari in the Circuit Court of the Ninth Judicial Circuit in and for Orange County.

(d) Notwithstanding anything to the contrary in this Section 5, this Resolution shall not alter or otherwise affect decisions by the Orange County Building Official, or the appeal or grievance rights and procedures from such decisions.

Section 6. Limitation. The Board of County Commissioners recognizes, and it should be recognized by the public, that Satisfactory Completion of a Munitions Survey does not constitute a guarantee or assurance that the property surveyed is actually free from unexploded ordnance. Satisfactory Completion of such a survey simply constitutes a determination by the applicant for Development Activity that, within the limitations of the Munitions Survey, no unexploded ordnance was discovered, or if unexploded ordnance was discovered, the discovered ordnance was removed from the property and properly disposed of. The reliability of a Munitions Survey may be adversely affected or impacted by numerous factors, including but not limited to the constraints of available technology, errors, mistakes or omissions in a Munitions Survey's scope or findings, and human error. Nevertheless, it is the goal and policy of the Board of County Commissioners that, to the maximum extent feasible, a Munitions Survey will discover unexploded ordnance that is present.

Section 7. Effective Date; Sunset. This Resolution shall take effect upon its adoption, and shall expire on June 1, 2010, unless extended by the Board of County Commissioners.

ADOPTED THIS 8th DAY OF APRIL, 2008.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Richard T. Crotty*
Richard T. Crotty
Orange County Mayor

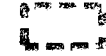
ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: *Martha O. Haynie*
Deputy Clerk

EXHIBIT "A"

PINE CASTLE JEEP RANGE

Pinecastle Jeep Range



Pinecastle Boundary

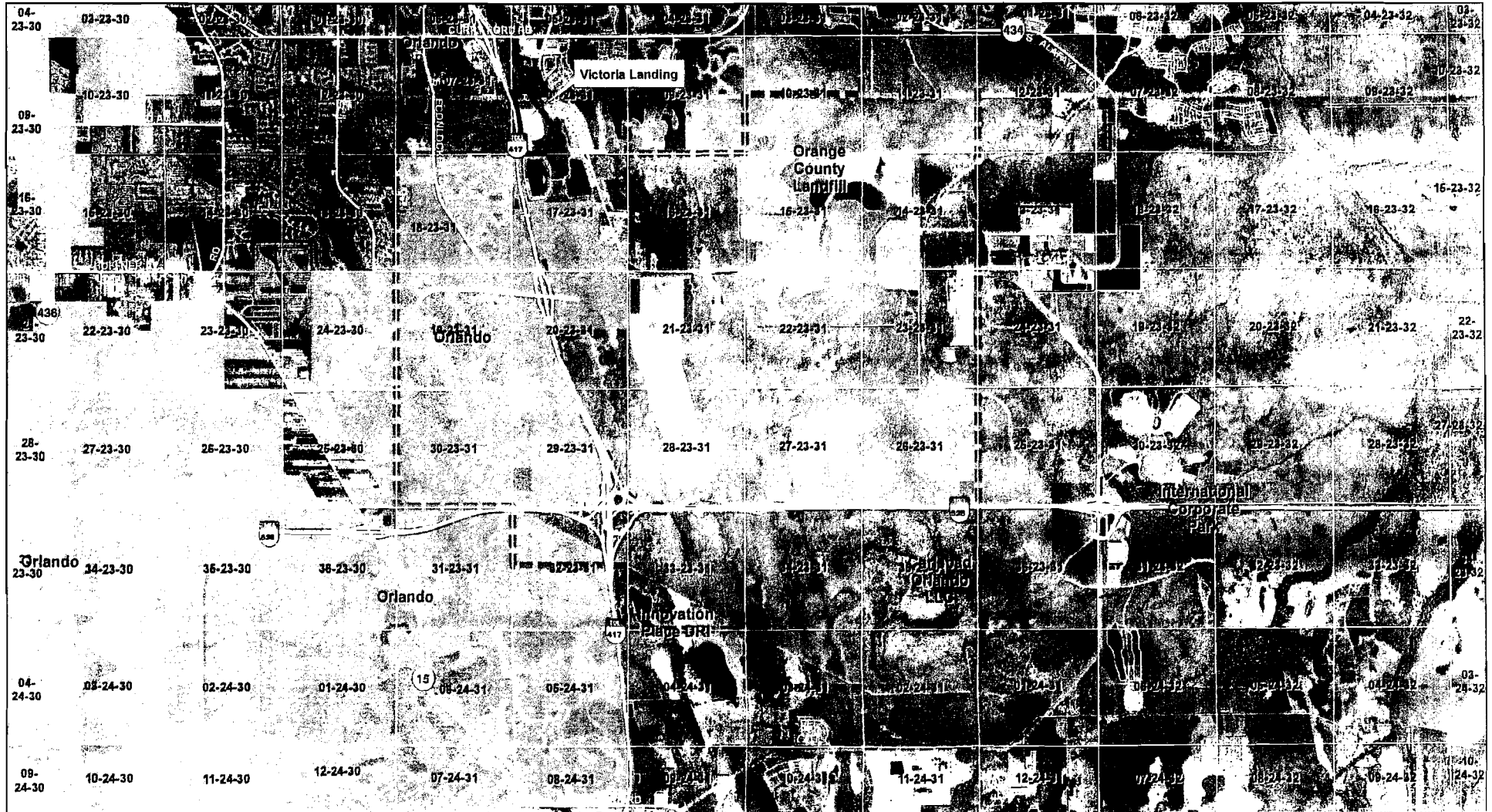


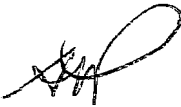
EXHIBIT "B"

ORANGE COUNTY BUILDING OFFICIAL'S MARCH 20, 2008,
MEMORANDUM REGARDING THE PINE CASTLE JEEP RANGE



March 20, 2008

To: All Building Division Safety Personnel

From: Alan C. Plante, Orange County Building Official 

Subject: Permits Information for Pine Castle Jeep Range

The U.S. Army Corps of Engineers has identified a Formerly Used Defense Site (FUDS) known as the Pine Castle Jeep Range, in which unexploded munitions and related dangerous debris from the World War II era have been discovered (see attached map). It is unclear exactly where, and to what extent, additional unexploded munitions may be present in the area. Absent an inspection and certification as described in the paragraph below, continued development and construction operations in this area present an unacceptable hazard to construction workers, property owners, and the general public, due to the possibility that unexploded munitions may be encountered, disturbed, and caused to explode, detonate, or burn during construction activity or work.

Therefore, effective immediately, no permit(s) shall be issued by Orange County Building Division of Building Safety for new construction, additions, pools, slabs, irrigation, or any improvement that may disturb the soil in the Pine Castle Jeep Range without first providing, for each site in question, a certification identifying that the site has been thoroughly inspected and examined and that no unexploded munitions have been found to exist, or if found to exist have been removed from the site. The certification shall be from a licensed or certified geophysical contractor or munitions contractor using generally accepted industry practices for munitions detection, such as ground penetrating magnetometry, electromagnetic induction, radar, sonar, or equivalent technology. The contractor's investigations shall be coordinated with the U.S. Army Corps of Engineers, which is responsible for the ongoing Remedial Investigation/Feasibility Study (RI/FS) at the Pine Castle Jeep Range FUDS Site.

These actions are taken in my capacity as the Orange County Building Official, under several legal authorities including without limitation Orange County's home rule powers, Chapters 125 and 553 of the Florida Statutes, Chapter 9 of the Orange County Code, and under sections 104.6 and 112.1 of the 2004 *Florida Building Code*, as adopted and amended Orange County and codified at section 9-33 of the Orange County Code.

To assist you with identifying properties that are located in the Pinecastle Jeep Range, a map along with the sections, townships and ranges is attached.

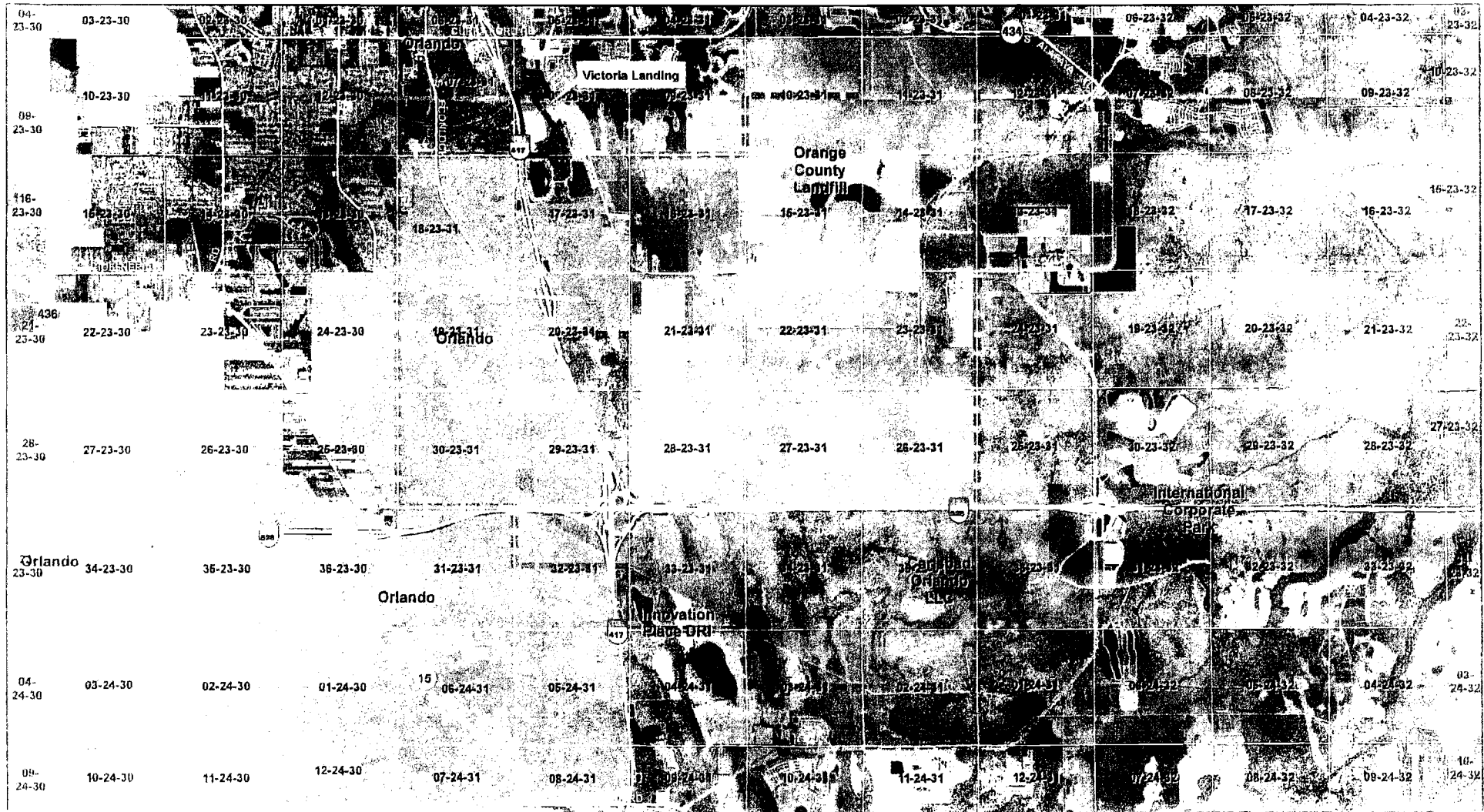
Should you have any questions, please see your immediate supervisor.

/acp

Cc: David Heath, Deputy County Assistant Administrator
 James E. Harrison, Esq., P.E., Director, Growth Management Department
 Joel Prinsell, Deputy County Attorney, Orange County Attorney's Office
 Roberta Alfonso, Assistant County Attorney, Orange County Attorney's Office
 Robert C. Olin, Manager, Division of Building Safety
 H. Allen Morton, Assistant Manager, Division of Building Safety

Pinecastle Jeep Range

Pinecastle Boundary



ATTACHMENT A

The Army Corps of Engineers has identified an area within Orange County as a Formerly Used Defense Site (FUDS) known as the Pine Castle Jeep Range. Please refer to this parcel ID and subdivision list prior to issuing permits in the Pine Castle Jeep Range area.

- **17-23-31-(Waterside/Hibiscus)**
- **08-23-31-2051 (Victoria Landing)**
- **08-23-31-2063 (Victoria Pines Townhomes)**
- **08-23-31-0347 (Falcon Pines Apartments)**
- **08-23-31-0348 (Benson Park/Andover Pointe Phase 2)**
- **08-23-31-3745 (Benson Park/Andover Pointe)**

In addition to section, township, ranges, and/or subdivision listed above, please do not issue permits for any properties along Young Pine Road or for the Orange County Landfill.