RESOLUTION
of the
ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS
regarding
RESOLUTION NO. 2008-M-11, AS EXTENDED, RELATING TO
PERMITTING AND APPROVALS FOR DEVELOPMENT
ACTIVITY
WITHIN THE PINECASTLE JEEP RANGE

Resolution No. 2011-M-54

WHEREAS, on April 8, 2008, in response to health and safety concerns related to
discoveries of World War II-era unexploded ordnance in the approximately 12,500-acre area
known as the Pinecastle Jeep Range, the Orange County Board of County Commissioners ("the
Board") adopted Resolution No. 2008-M-11, entitled "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" ("the PJR Resolution");

WHEREAS, the PJR Resolution contemplated that at approximately the same time, the
United States Army Corps of Engineers ("ACoE") was commencing an investigative study to
determine the ongoing risks associated with unexploded ordnance and munitions constituents in
the soil and water of the Pinecastle Jeep Range (the "Feasibility Study");

WHEREAS, the PJR Resolution contemplated that the ACoE would complete its
Feasibility Study Report by mid-2010, and therefore Section 7 of the PJR Resolution provided a
sunset date of June 1, 2010, unless extended by the Board;

WHEREAS, when it became apparent that the ACoE might not complete its Feasibility
Study Report by June 1, 2010, the Board adopted Resolution No. 2010-M-42, extending the
sunset date of the PJR Resolution to June 1, 2011, unless further extended by the Board;

WHEREAS, although the ACoE produced its Final Feasibility Study Report on June 30,
2010, the Board adopted Resolution No. 2011-M-17, further extending the sunset date of the
PJR Resolution to December 1, 2011, unless extended again by the Board; and

WHEREAS, based on the results of the ACoE's Final Feasibility Study Report, and with
a view to further information coming to light through development of the ACoE's final Decision
Documents, the Board determined in Resolution No. 2011-M-17 that it was in the public interest
for the County staff to present for the Board's consideration, by December 1, 2011, a process to
notify persons who own property within the former Pinecastle Jeep Range regarding the nature
of the area as a formerly used United States Department of Defense site and the resulting
potential risk of future development and other site-disturbing activities.
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. **Expiration of Resolution No. 2008-M-11, as Extended.** Resolution No. 2008-M-11, entitled "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," as extended twice by Resolution No. 2010-M-42 and Resolution No. 2011-M-17, is hereby briefly extended one final time to January 13, 2012, on which date it shall automatically expire without further action by the Board.

Section 2. **Notification to Property Owners of Record.** On or before January 13, 2012, the County Administrator or his designee shall send a letter to all property owners of record of unincorporated lands within the former Pinecastle Jeep Range informing them of the nature of the area as a former United States Department of Defense site, the potential risk of future development and other site-disturbing activities, and the Final Feasibility Study Report prepared by the ACoE. The letter shall be delivered by regular U.S. Mail in substantially the form attached hereto as Appendix "A." The two-page ACoE bulletin dated July 2010, entitled "Pinecastle Jeep Range Remedial Investigation: Results and Recommendations," shall be enclosed with each letter. In determining the identity and addresses of the property owners of record, the County Administrator shall refer to and use the current records in the Office of the Orange County Property Appraiser.

Section 3. **Starwood Project Agreement.** Nothing in this Resolution shall be deemed as amending, affecting, cancelling or terminating the existing Carlsbad Orlando, LLC Agreement regarding Site Investigation and Potential Remediation, recorded at O.R. Book 9722, Page 3947, et seq., of the Public Records of Orange County, as amended by the Partial Release, recorded at O.R. Book 10276, Page 5234, et seq., of the Public Records of Orange County.
Section 4. Effective Date. This Resolution shall take effect upon its adoption.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: Teresa Jacobs
Orange County Mayor

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

By: Deputy Clerk

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Appendix “A”

[Date]

[Name and Mailing Address of Property Owner]

Subject: Pinecastle Jeep Range; U.S. Army Corps of Engineers Bulletin

Dear [Property Owner of Record]:

Pursuant to Resolution No. 2011-M-___ adopted by the Orange County Board of County Commissioners on November 29, 2011, the purpose of this letter is to inform you that, as you may already know or have heard, your property is located within the boundaries of the former Pinecastle Jeep Range, a United States Department of Defense site from the early 1940s used as a gunnery and demonstration range for testing and troop instruction. As such, there is a potential risk, although perhaps minimal or slight, associated with any future development or other site-disturbing activity at your property.

Enclosed for your review is a two-page U.S. Army Corps of Engineers bulletin dated July 2010, explaining the results and recommendations of a remedial investigation conducted at the former Pinecastle Jeep Range by the Army Corps of Engineers. Please take the time to read it to learn the investigation results for the area where your property is located. Also, please note that it indicates that you can view the Army Corps of Engineers’ project documents at the Orlando Public Library Southeast Branch at 5575 S. Semoran Blvd. in Orlando and contact the Army Corps of Engineers for more information by calling 1-800-291-9413, a toll free phone number, or sending an email to FUDS.Florida@usace.army.mil.

Orange County does not have any responsibility or obligation to guard against or assume any risk associated with any development or other site-development activity at your property, and Orange County does not assume any such responsibility or obligation. It is your responsibility to guard against and assume any such risk, and to inform any guests, invitees, contractors, and subsequent purchasers of the potential risks.
If you should ever encounter, or suspect you have encountered, unexploded munitions on your property, Orange County recommends you follow the “3 R’s” of explosives safety:

1. RECOGNIZE that the item may be dangerous;

2. RETREAT and do not touch or disturb it; and

3. REPORT its location to the Orange County Sheriff’s Office or the Army Corps of Engineers at http://www.saj.usace.army.mil.

If you have any questions after reading this letter and the enclosed bulletin, please contact the Army Corps of Engineers at 1-800-291-9413 or FUDS.Florida@usace.army.mil.

Sincerely,

Ajit M. Lalchandani [or designee]
County Administrator

Enclosure
Remedial Investigation
The U.S. Army Corps of Engineers has completed the Remedial Investigation/Feasibility Study (RI/FS) of the former Pinecastle Jeep Range (PJR) in Orlando, Florida. The purpose of a RI/FS is to determine the nature and extent of contamination which may be a result of the military's past use of the land. The goal is to identify potentially impacted areas so the Corps can evaluate appropriate corrective action alternatives.

PJR was divided into Areas of Interest (AOI) based on how the military had used the land in the past, as well as its current use. Crews searched for munitions and munitions debris and collected soil and water samples. They dug over 48,000 anomalies and collected almost 200 samples (See separate fact sheet on the environmental sampling results). Only 24 of the anomalies were munitions and over 800 were munitions debris, such as casings and fragments. The remaining objects were metallic debris, such as wires, nails, fencing and the like. The munitions and munitions debris were found primarily on undeveloped land and none were found in residential lots. No munitions were found north of Lee Vista Boulevard, and no soil contamination was identified in any residential area.

The Corps searched all properties to which the owner granted permission. Residential properties located within 3,000 feet of a bomb target were fully investigated. (Please see the separate fact sheet "Remedial Investigation: Explanation of Dig Plan" for more information.) The following details the results by neighborhood.

Investigation Results

Waterside (AOI D) is outside of all known range fans or demonstration targets. Of the 290 properties, 83 (or 29 percent) were searched. No munitions or munitions debris was found.

Tivoli Village (AOI C) is within a .50 caliber range fan. Of the 227 properties, 116 (or 51 percent) were searched. No munitions or munitions debris was found.

Bella Vista (AOI C) is outside of all known range fans or demonstration targets. Of the 226 properties, 109 (or 51 percent) were searched. No munitions or munitions debris was found.

Oak Crest (AOI C) is outside of all known demonstration targets and only a small corner of a common area is within a .50 caliber range fan. Of the 319 properties, 151 (or 47 percent) were searched. No munitions or munitions debris was found.

The Sanctuary (AOI C) is outside of all known demonstration targets and only a portion is within a .50 caliber range fan. Of the 335 properties, 246 (or 73 percent) were searched. No munitions or munitions debris was found.

Central Park (AOI A and B) is a condominium community where portions are within 1,500 feet of a demonstration target. All of the common areas and open spaces were searched, but no munitions or munitions debris was found.

A portion of Newport (AOI A, B and C) is within 3,000 feet of a demonstration target. Of the 157 properties within the boundaries, 59 (or 38 percent) were searched. No munitions or munitions debris was found.

Warwick (AOI B) was searched as part of the Time Critical Removal Action (TCRA). No munitions or munitions debris was found.

Vista Lakes Residents' Club (AOI B) was also searched because a portion is within 3,000 feet of a demonstration target. No munitions or munitions debris was found.

Avon (AOI A) is within a .50 caliber range fan and a portion is within 3,000 feet of a demonstration target. Of the 138 properties, 99 (or 72 percent) were searched. No munitions were found, and the munitions debris was limited to three .50 caliber projectiles.

Lee Vista Square (AOI A) is within a .50 caliber range fan, and a portion is within 3,000 feet of a demonstration range. Of the 271 properties, 140 (or 52 percent) were searched. Munitions debris was discovered in common areas.

Tivoli Gardens (AOI A) was searched during the TCRA. Munitions and munitions debris were found.

Central Park (AOI A and B) is a condominium community where portions are within 1,500 feet of a demonstration target. All of the common areas and open spaces were searched, but no munitions or munitions debris was found.
Munitions Response Sites (MRS):

Based on the results of the investigations, the size of the potentially impacted area has been significantly reduced, from approximately 12,000 acres to about 2500 acres, and the FJR has been divided into four munitions response sites (MRS).

• Demonstration Range North
• Demonstration Range South
• Demonstration Range East
• Remaining Area MRS

The demonstration ranges are located south of Lee Vista Boulevard, north of Beachline Expressway, from the western boundary of the property east to the Orange County landfill. Demonstration Range South is a portion of the undeveloped property known as Mockingbird (AOI E). Demonstration Range East (AOI F and H) includes Beltway Commerce Center and a portion of the landfill property. Demonstration Range North (part of AOI A) is south of Lee Vista Boulevard and includes Odyssey Middle School, Tivoli Gardens and Lee Vista Square. All the residential neighborhoods (including Warwick) except Tivoli Gardens and Lee Vista Square are in the Remaining Area MRS.

Recommendations:
The recommendations for each new MRS are as follows.

• Demonstration Range North: Remove munitions and any contaminated soil; provide construction support when the property is developed; suggest City maintain permitting restrictions; conduct a public awareness campaign; review the situation every five years.

• Demonstration Range South: Remove munitions and any contaminated soil; provide construction support when the property is developed; suggest City maintain permitting restrictions; conduct a public awareness campaign; review the situation every five years.

• Demonstration Range East: Provide construction support when developed; remove contaminated soil, suggest City maintain permitting restrictions; conduct a public awareness campaign; review the situation every five years.

• Remaining Area MRS – No further action is necessary.
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
Orange County Mayor

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

By: Deputy Clerk
EXHIBIT "A"

PINE CASTLE JEEP RANGE
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 (RIFS) 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.

/lacp

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 Aifonso, 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
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.

March 20, 2008