

# Board of Adjustments

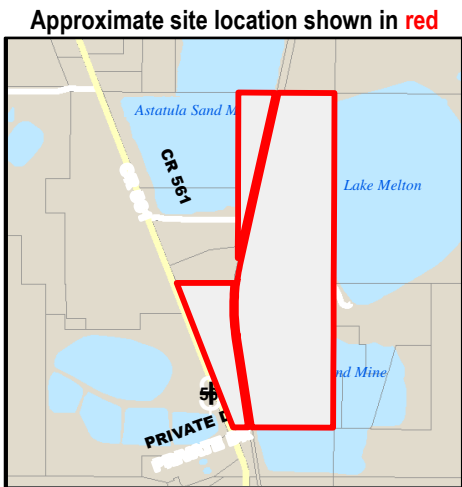


April 9, 2015

<b>VAR-2015-03-3</b>	<b>Case Manager:</b> Michele Janiszewski, Planner	<b>Agenda Item #1</b>
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**REQUESTED ACTION:** The applicant is requesting a variance from **Lake County Land Development Regulations, 9.02.10 (F.2.) Heritage trees** to allow the removal of a sixty (60) caliper-inch heritage tree; the Code states that the removal of heritage trees is prohibited unless it poses a danger to persons or property.

- Site Location and Information -



<b>Owners</b>	Florida Rock Properties, Inc.
<b>Applicant</b>	Lisa Fairchild, Kleinfelder
<b>Address of Property</b>	27222 CR-561, Astatula
<b>General Location</b>	East of CR 561, south of Tavares
<b>Size</b>	156.86 acres
<b>Alternate Key</b>	1095131
<b>Future Land Use (FLU)</b>	Industrial and Rural
<b>Zoning District</b>	Agriculture + Mining CUP
<b>Overlay Districts</b>	NA
<b>Joint Planning Area</b>	Tavares
<b>ISBA</b>	Tavares
<b>Flood Zone / FIRM Panel</b>	A; 12069C0365E and 12069C0505E
<b>Commissioner's District</b>	Conner- 3

**Property Posted:** March 17, 2015  
**Notification Cards Mailed Out:** March 17, 2015

**Land Use Table**

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Rural and Industrial	Heavy Industrial + Mining CUP	Mining Operation
South	Rural	Agriculture + Mining CUP	Mining Operation
East	Rural	Agriculture + Mining CUP	Mining Operation and Pasture/Orange Grove
West	Industrial and Regional Office	Heavy Industrial and Agriculture + Mining CUP	Mining Operation and Light Manufacturing

**14.15.01 Purpose of Variances.** In the strict application of uniformly applicable Land Development Regulations (LDR), the Board of County Commissioners (BCC) finds that it is appropriate in such cases to adopt a procedure to provide relief to persons subject to the LDR. The Board of Adjustment (BOA) is authorized to grant variances to requirements of the LDR when its application leads to unreasonable, unfair, and unintended results to the development and use of land. However, the variance must be consistent with the rules contained in these regulations. This Section does not authorize the BOA to grant variances inconsistent with the Comprehensive Plan nor to grant a variance to allow uses not generally permitted in the applicable zoning district or any use expressly or by implication, prohibited by the terms of the LDR for that zoning district. Additionally, the existence of nonconforming use of neighboring lands or unpermitted use of neighboring lands shall not be considered grounds for authorization of a variance.

#### **14.15.02 Granting Variances and Appeals**

Variances may be granted when the person subject to the LDR demonstrates that the purpose of the LDR will be or has been achieved by other means, and when application of a LDR would create a substantial hardship or would violate principles of fairness.

For purposes of this section, “substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. The “principles of fairness” are violated when the literal application of a LDR affects a particular person in a manner significantly different from the way it affects other similarly situated persons or properties who are subject to the LDR.

Variances may also be granted to allow for the reconstruction, rehabilitation, or restoration of structures listed on, or classified as contributing to a district listed on the National Register of Historic Places, Florida Master Site File or local surveys of historical resources. In such instance, the variance shall be the minimum necessary to protect the historical integrity of the structure and its site.

**ANALYSIS:** The subject property is 156.86 +/- acres and located east of County Road 561 in the Astatula area. The applicant is requesting a variance to allow the removal of a sixty (60) caliper-inch heritage tree. Land Development Regulation Section **9.02.10 (F.2.)** states that the removal of heritage trees is prohibited unless it poses a danger to persons or property. The subject heritage tree is in good health and is in the foot print of a proposed office trailer and septic system. The applicant has stated the heritage tree will be mitigated inch for inch on site with canopy trees of 2.5 caliper inches or greater in size. The proposed canopy trees will be placed along County Road 561.

The property is zoned Agriculture and was granted a mining conditional use permit in 1973 for the mining of sand, gravel, clay, fill dirt and other minerals. The mine is currently in operation. . The property is surrounded by other mining operations, light manufacturing, and a pasture/orange grove.

The heritage tree is located in an area used for offices. The tree has four trunks and aerial photographs of the area provided by the applicant show that the tree is likely 20-25 years old. The applicant is requesting the removal of the heritage tree in order to place an office trailer and septic tank.

The **intent of the Code** (LDR Section 9.02.00) is to recognize the importance of trees and palms and their meaningful contribution to a healthy, beautiful, and safer community attributable to their carbon dioxide absorption, oxygen production, dust filtration, wind and noise reduction, soil erosion prevention, lakeshore erosion protection, wildlife habitat, surface drainage improvement, beautification and aesthetic enhancement of improved and vacant lands and the general promotion of the health, safety, welfare and

well-being of the community. The applicants submitted the following reasons as proof of meeting the **intent of the Code**:

*“Pursuant to 9.02.06 of the LDR, appropriate mitigation for the replacement of a removed heritage tree is 100% of the DBH. As such, a total tree replacement of 60.5 inches DBH is being proposed in accordance with the LDR. A copy of the landscape plan with a total DBH replacement of 153.0 inches which includes 60.5 inches for the heritage tree removal and 92.5 inches for the removal of native upland trees has also been attached.”* The submitted Landscape plan is provided as Attachment B.

The applicant submitted the following as proof that the application of the Land Development Regulation would create a **substantial hardship or would violate principles of fairness** (full memo included as Attachment A):

*“The tree removal is being proposed in association with the reconfiguration of the plant facility for the mine to create additional area for stockpiling/processing; specifically, it is in an area where a new office and septic tank are being proposed as shown in the attached proposed facility site plan. This area has been used for offices in the past and is the only area near the plant that hasn’t been involved in production. As such, it is the only area near the plant that does not consist of tailings and has the soil stability to support the office trailer and septic system. Finding another area where the office trailer and septic could be located would involve a location much further from the plant area and thus, require significantly longer electric and water supply lines to connect to the existing systems and result in substantially higher costs. As such, not being able to remove the laurel oak tree in association with the plant reconfiguration would result in a substantial hardship on FRI.”*

**FINDINGS OF FACT:** Staff has reviewed the application for this variance request and found:

- The request is consistent with the intent of LDR Section 9.02.00, which regulates the removal and replacement of trees and palms;
- The proposed location of the office trailer and septic system is the only area near the plant that does not consist of tailings and has the soil stability to support the proposed development; and
- The applicant intends to meet the requirements of LDR Section 9.02.06 (B.) which states that when a heritage tree is removed, 100% of the total caliper inches are to be mitigated.

The owners have submitted proof of meeting the intent of the Code and have shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. Based on the Findings of Fact and Analysis stated above, Staff recommends **approval** of the variance request to allow removal of the sixty (60) caliper inch heritage tree with appropriate mitigation.

**Final Development Order  
Gary and Peggy Custer  
VAR-2015-03-3**

**A VARIANCE OF THE LAKE COUNTY BOARD OF ADJUSTMENT AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Lisa Fairchild (the “applicant”), on behalf of Florida Rock Properties, Inc. (the “Owner”), requested a variance to allow the removal of a heritage tree that is located where an office trailer and septic system are proposed; and

**WHEREAS**, the subject property consists of 156.86 +/- acres and is generally in the Astatuala area, east of County Road 561, in Section 17, Township 20 South, Range 26 East, alternate key number 1095131 and is more particularly described as:

Beginning at a point lying at the northeast corner of Section 17, Township 20 South, Range 26 East and run south to southeast corner of north  $\frac{3}{4}$  of south  $\frac{1}{2}$ , west to easterly right of way Highway 561, northwesterly along easterly right of way of Highway 561 to north line of southeast  $\frac{1}{4}$ , east to northwesterly 100 feet Rail Road right of way, northeasterly along said Rail Road right of way to west line of east  $\frac{1}{2}$  of northeast  $\frac{1}{4}$ , north to north line of section, east to point of beginning –less Florida Rock Road right of way.

**AND**, after giving Notice of Hearing on petition for a variance to the Lake County Land Development Regulations, including notice that said variance would be presented to the Board of Adjustment of Lake County, Florida, on April 9, 2015; and

**WHEREAS**, the Board of Adjustment reviewed said petition, staff report and any comments, favorable or unfavorable, from the public and surrounding property owners at a public hearing duly advertised; and

**WHEREAS**, on April 9, 2015, the Lake County Board of Adjustment approved the variance for the above property; and

**NOW THEREFORE, BE IT ORDAINED** by the Board of Adjustment of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above subject property, subject to the following terms:

- Section 1. Terms:** The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-2015-03-3 to allow for the removal a heritage tree, in accordance with the following **conditions**:
- A. Every caliper inch of the removed tree shall be mitigated on site with canopy trees of 2.5 caliper inches or greater in size along County Road 561, as depicted in the proposed landscape plan.

**Section 2. Severability:** If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**Section 3. Effective Date.** This Ordinance shall become effective as provided by law.

**ENACTED** this 9th day of April, 2015.

**EFFECTIVE** April 9, 2015.

**BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA**

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**Donald Schreiner, Chairman**

**STATE OF FLORIDA  
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this April 9, 2015 by DONALD SCHREINER, who is personally known to me.

(SEAL)

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**Signature of Acknowledger**

**Serial Number:** \_\_\_\_\_

**My Commission Expires:** \_\_\_\_\_

# Attachment A (6 Pages)



March 10, 2015

Michele Janiszewski, Planner  
Division of Planning & Community Design  
Department of Growth Management  
Lake County Board of County Commissioners  
P.O. Box 7800  
315 West Main Street, Room 515  
Tavares, FL 32778

Via e-mail: [mjaniszewski@lakecountyfl.gov](mailto:mjaniszewski@lakecountyfl.gov)

**PROJ: FLORIDA ROCK INDUSTRIES (FRI)**  
**ASTATULA SAND PLANT (KLF #20154192.016A/1)**  
**RE: VARIANCE PERMIT APPLICATION**

Dear Ms. Janiszewski:

We received an email Request for Additional Information (RAI) from Lake County's Growth Management Department on March 5, 2015 in regards to the referenced application for the removal of a 60-inch caliper oak tree. Additional information to demonstrate a hardship and/or violation of principles of fairness was requested in the RAI pursuant to Land Development Regulation 14.15.02. The following information is being provided to address this RAI request.

## RAI RESPONSE

The variance permit for the tree removal is being requested on the basis of a hardship and a violation of principles of fairness. The tree proposed for removal is a laurel oak, a species which is primarily used as a landscaping tree. This particular tree is not a tree which was avoided or preserved as part of a natural forested habitat. Instead it was planted somewhere around the early 1990's according to feedback from onsite employees. Recent 2014 imagery showing the tree's location as surveyed on January 20, 2015 has been attached. The tree canopy is clearly evident in this photograph. Pursuant to the attached historic imagery from 1983, no tree is evident in this location. The tree is also not evident in the attached historic image from 1995; however, newer plantings are evident in the vicinity of the plant area. As such, it is fair to assume the laurel oak tree proposed for removal is no older than 20-25 years of age.

The purpose of the heritage tree designation is to protect county trees that are of particular significance due to factors such as age, size, rarity, ecological value, or form. An age of 20-25 years old for a laurel oak tree is not significant as these trees can have

lifespans up to 70 years, and comparatively other species such as live oak can have lifespans up to 300 years. Laurel oak trees are one of the most common trees in the southeast and are commonly used as landscape/ornamental trees as in this case and as such, this tree would not be considered rare. The tree is located in the plant area of a mine site where mining has been ongoing for 40+ years and thus, there is nothing distinctive about its ecological value. Additionally, this tree has the standard “lollipop” shape of a laurel oak tree so there is nothing significant about its form. An aspect of its form is atypical in the fact that the tree splits into four trunks at the ground level instead of higher on the trunk and this is the reason it meets the size requirement; however, to classify this tree as a heritage tree of particular significance based on this criterion does not appear to meet the true intent of the rule. As such, preventing FRI from developing in this area because of the presence of this laurel oak tree appears to violate the ‘principles of fairness’ as defined by County code.

The tree removal is being proposed in association with the reconfiguration of the plant facility for the mine to create additional area for stockpiling/processing; specifically, it is in an area where a new office and septic tank are being proposed as shown in the attached proposed facility site plan. This area has been used for offices in the past and is the only area near the plant that hasn’t been involved in production. As such, it is the only area near the plant that does not consist of tailings and has the soil stability to support the office trailer and septic system. Finding another area where the office trailer and septic could be located would involve a location much further from the plant area and thus, require significantly longer electric and water supply lines to connect to the existing systems and result in substantially higher costs. As such, not being able to remove the laurel oak tree in association with the plant reconfiguration would result in a substantial hardship on FRI.

Should you have further questions related to the variance application and/or the additional information provided herein, please do not hesitate to contact us at your earliest convenience. Your time and assistance with the review of the subject application is greatly appreciated.

Respectfully,



Bill Newlon  
Senior Environmental Scientist

c: Chryl DeCrenza, Sr. Program Manager – KLF  
Traci Johns, Environmental Manager – FRI

Source: 2014 RGB 0.5-foot Orthophotos obtained from the FDOT, Surveying and Mapping Office, Image Services in the form of MrSid.

Section 17  
Township 20 South  
Range 26 East



**Legend**

- Survey Areas
- X Surveyed 2015 Heritage Tree Location

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PROJECT NO. 20154192.016A  
DRAWN: 3/9/2015  
DRAWN BY: NL  
CHECKED BY: AWN  
FILE NAME: 15-0306--Astatula  
-HeritageTree.mxd

**2014 Aerial Photograph**

Florida Rock Industries, Inc.  
Astatula Sand Plant  
Lake County, Florida

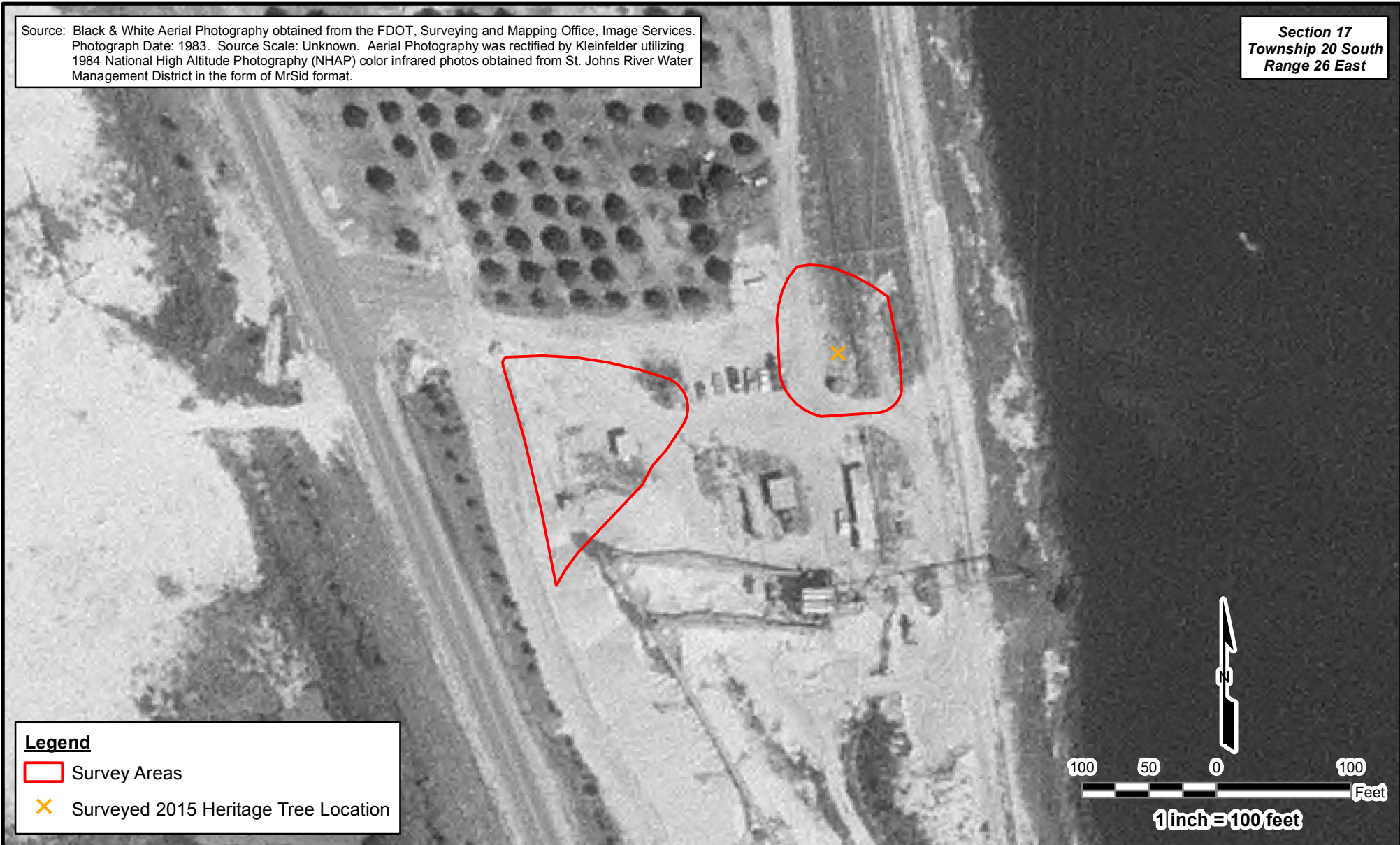
FIGURE

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Source: Black & White Aerial Photography obtained from the FDOT, Surveying and Mapping Office, Image Services. Photograph Date: 1983. Source Scale: Unknown. Aerial Photography was rectified by Kleinfelder utilizing 1984 National High Altitude Photography (NHAP) color infrared photos obtained from St. Johns River Water Management District in the form of MrSid format.

**Section 17  
Township 20 South  
Range 26 East**



**Legend**

- Survey Areas
- X Surveyed 2015 Heritage Tree Location

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 CHECKED BY: AWN  
 FILE NAME: 15-0306--Astatula  
 -HeritageTree.mxd

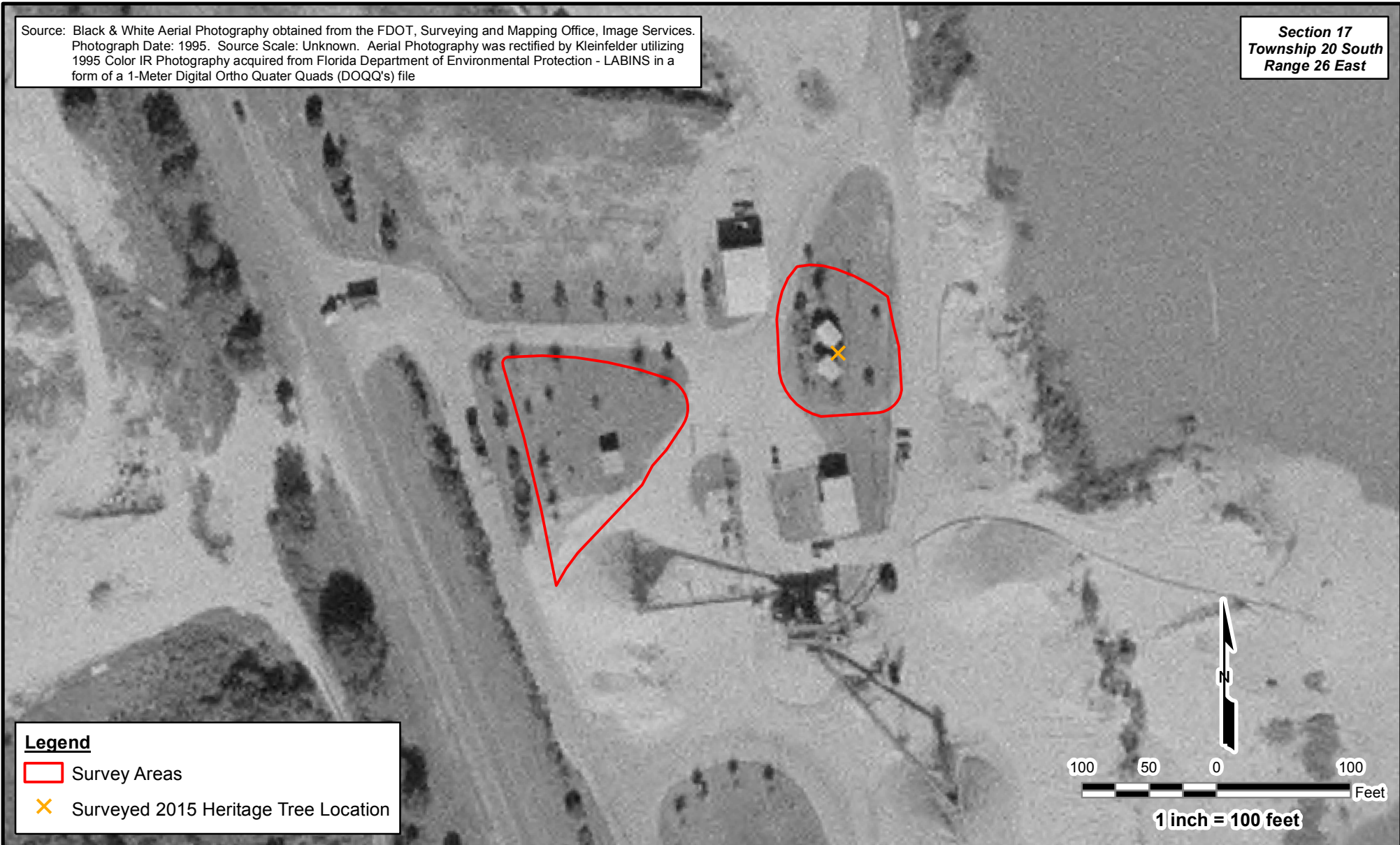
**1983 Aerial Photograph**

Florida Rock Industries, Inc.  
 Astatula Sand Plant  
 Lake County, Florida

FIGURE  
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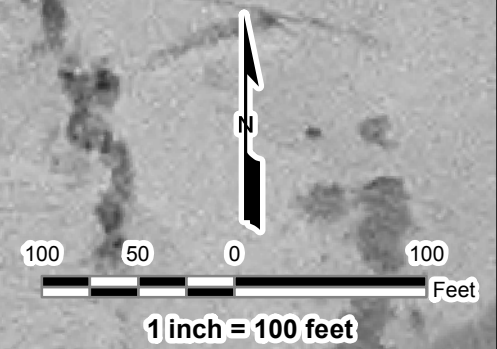
Source: Black & White Aerial Photography obtained from the FDOT, Surveying and Mapping Office, Image Services.  
 Photograph Date: 1995. Source Scale: Unknown. Aerial Photography was rectified by Kleinfelder utilizing  
 1995 Color IR Photography acquired from Florida Department of Environmental Protection - LABINS in a  
 form of a 1-Meter Digital Ortho Quarter Quads (DOQQ's) file

**Section 17  
 Township 20 South  
 Range 26 East**



**Legend**

- Survey Areas
- X Surveyed 2015 Heritage Tree Location



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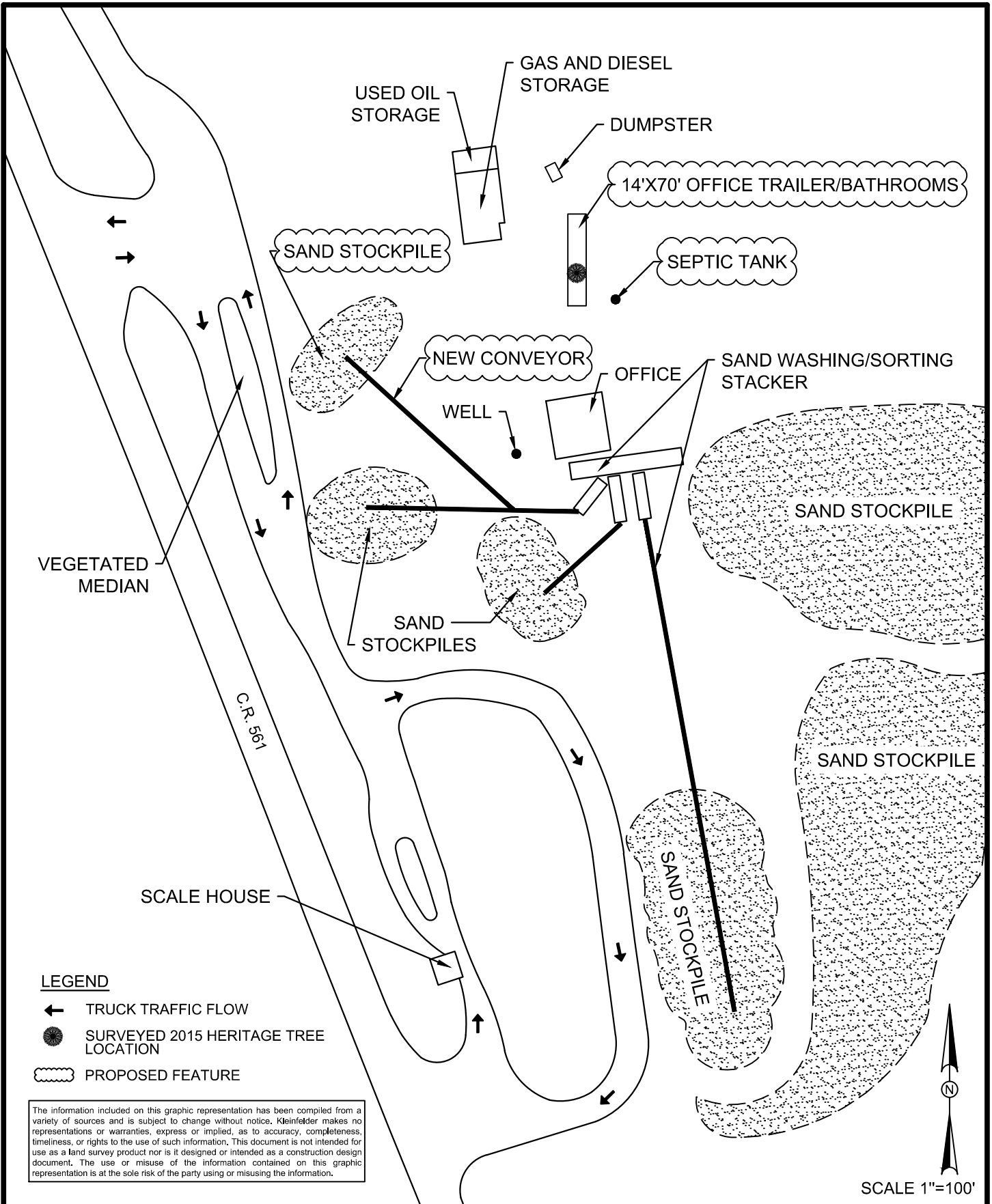
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PROJECT NO. 20154192.016A  
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 FILE NAME: 15-0306--Astatula  
 -HeritageTree.mxd

**1995 Aerial Photograph**

Florida Rock Industries, Inc.  
 Astatula Sand Plant  
 Lake County, Florida

FIGURE  
 -



**LEGEND**

- ← TRUCK TRAFFIC FLOW
- SURVEYED 2015 HERITAGE TREE LOCATION
- ☁ PROPOSED FEATURE

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SCALE 1"=100'



PROJECT NO. 20154192.016A  
 DRAWN BY: NL  
 CHECKED BY: AWN  
 DATE: 3/9/2015  
 REVISED:

PROPOSED FACILITY SITE PLAN  
 FLORIDA ROCK INDUSTRIES, INC.  
 ASTATULA SAND PLANT  
 LAKE COUNTY, FLORIDA

FIGURE

# Attachment B (1 Page)

MOUNT DORA, FL



**Legend:**

- Sand live oak (*Quercus geminata*)- 31
- Eastern red cedar (*Juniperus virginiana*) - 31

**NOTE:**

Replacement trees will consist of 100% canopy trees on 12' and 15' centers and will include a mix of native sand live oak (*Quercus geminata*) and eastern red cedar (*Pinus elliotii*). A total of 62 replacement trees will be used with a minimum 2.5 inch DBH per tree.

**Jonathan D. Frazier, P.E.**  
FL P.E. #68641

<p>PROJECT NO. 20154192.016A</p> <p>DRAWN: 2/13/2015</p> <p>DRAWN BY: NL</p> <p>CHECKED BY: BN</p> <p>FILE NAME: 15-0210--Astatula-LandscapePlan.dwg</p>	<p><b>LANDSCAPE PLAN</b></p> <p>FLORIDA ROCK INDUSTRIES ASTATULA SAND PLANT LAKE COUNTY, FLORIDA</p>	<p>FIGURE</p>	
		<p>0 100 200</p> <p>SCALE: 1" = 100' SCALE IN FEET</p> <p><small>The information included on this graphic representation has been compiled from a variety of sources and is subject to change without notice. Kleinfelder makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information. This document is not intended for use for any purpose other than that specifically stated in the design agreement. The use of or misuse of the information contained on this graphic representation is at the sole risk of the party using or misusing the information.</small></p>	