

Solid as an Oak Tree, Dead as a Door Nail

They're in the Design District, they're old and majestic, and they're about to be destroyed

By Terence Cantarella
BT Contributor

Miami art collectors Carlos and Rosa de la Cruz are well along in the construction of their expansive new Design District museum that will showcase their world-renowned collection of contemporary art. It is scheduled to open in time for Art Basel Miami Beach in December. And although their art may be new, across the street from their building, where they're planning a parking lot, they are dealing with something much, much older: oak trees.

Two 80-foot-tall Southern Live Oaks, estimated to be nearly 100 years old, rise from the soil like living monuments at the rear of the vacant lot at 28 NE 41st St., their wide evergreen canopies casting precious shadows over this corner of a sun-blasted city. Miami, in fact, is ranked among the worst in the nation for tree canopy. "Born" in the early part of the last century, the twin oaks have matured with the neighborhood as it went from agricultural seclusion to mid-century ritz to drug-ravaged slum and finally to its present incarnation as the Design District, one of Miami's most vibrant commercial areas.

Those two stately oaks, however, may soon fall to the chainsaw.

On August 26, Miami's Code Enforcement Department approved an application to remove and destroy the long-standing trees, thus making room for several more vehicles in the de la Cruzes' soon-to-be-built museum parking lot.

Before permission was granted, the de la Cruzes "mitigated" with the city — mitigation being the process by which property owners make amends with Mother Nature



George Perez and the 41st Street oaks: "Somebody's got to do something."

by either paying money into Miami's Tree Trust Fund or by planting replacement trees on their land. And if replacement trees cannot reasonably be placed on the property, the owner must hire a landscaping contractor to have them planted on a public right-of-way or in a public park.

The number of replacement trees required is determined by a formula based on the diameter of the trees being removed. In the case of the 41st Street oaks, the city provided the *BT* with conflicting information — the formula was either 26 trees that are 12 feet tall, or 19 trees that are 14 feet tall. It is also unclear whether those "mitigation trees" have already been planted several miles away at Miami's Curtis Park. Either way, the cost to the de la Cruzes could easily exceed \$10,000.

Under the city's Master Tree Plan, an initiative that aims to restore Miami's

denuded tree canopy, the expensive and burdensome mitigation process is meant to act as a deterrent to would-be tree-fellers, encouraging property owners to let thriving trees stand. But among developers for whom money is not an issue, mitigation is just a small obstacle to tree removal.

Bob Brennan, a well-known Miami tree expert and chief arborist at Fairchild Tropical Botanic Garden, thinks the 41st Street oak trees can and should be saved. "They're fantastic!" he says during a visit to the site. "They're part of Miami's history. The size of them is just spectacular. You don't find them like this very often because they're being cut down so people can put houses in. We've lost hundreds of them over the past five years."

Brennan also believes it would be cheaper for the de la Cruzes to keep the trees and build their parking lot around them. "There are so many ways

to accommodate the trees," he explains. "You can put in gravel, a layer of construction sand above that, and then a permeable membrane so water will go through. You want to disperse the weight of the vehicles as they go by. You just build up with aggregate stone and make sure you allow the trees to breathe. You're losing maybe six to eight parking spots and you're protecting 100 years of history."

Jeff Shimonski, director of horticulture at Jungle Island and longtime "Your Garden" contributor to the *BT*, says that saving the oaks, and ensuring they thrive in the middle of a parking lot, will take some effort. "If the trees are saved, they'll have to be properly protected, and that's a difficult thing to do on any construction project," he says after inspecting the trees. "I am for saving them, but not if it's a superficial attempt that ultimately condemns those beautiful trees to a slow, painful death."

Ted Baker, a landscape architect with the City of Miami, explains in an e-mail to the *BT* that the Code Enforcement Department "is quite diligent in protecting the city's tree canopy." Indeed the city has the authority to deny tree-removal applications — if, for example, the tree is not in the footprint of a planned new building, if it is not sick or dead, or if its removal would be detrimental to the "life, safety, or the welfare" of the city. Apparently the age or size of a tree is not a consideration. Fines for heavily trimming or removing a tree without a permit can be steep, sometimes reaching as high as \$15,000. But tree expert Brennan says he has "never seen the City of Miami deny a permit to take out a tree."

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Strut Strife

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but it hurt us. We lost at least 50 people.”

Terry believes that Baldwin won't be satisfied until she takes full control of the Strut. Baldwin dismisses the notion. “You won't hear *me* saying, ‘It's mine,’” she retorts. In an April e-mail to Terry, she even offered to resign from the nonprofit corporation and end her involvement with the Strut if Terry would agree to relinquish his private ownership of the trademark. “The Strut belongs to no one and everyone,” she wrote. “It belongs to all who have volunteered and participated throughout its 27 years of history.”

Her offer went unanswered until August 22, when Terry e-mailed her an 11-point “peace plan.” Highlights: She deposit the checks and unfreeze the Strut bank account; she consent to dissolving King Mango Strut, Inc.; they hold each other “harmless” for past actions; he keeps the trademark but licenses Coconut Grove Players to use it for three years; and if all goes well, he'll “consider” giving the Players a permanent license.

Baldwin's one word e-mail reply: “Nuts.”

Len Scinto, an FIU professor who has helped organize the Strut since 2004, is frustrated by the Terry-Baldwin feud. “None of this stuff should be important,” he says. “There is nothing more important than the laughter of people watching the parade and those *in* the parade. It's about fun and community and irreverence and all that stuff — at least to me.” And should the dispute end up in court, with Mangoheads called as witnesses, he'll be ready. “I'll probably show up in an OJ mask,” he says. “And I hope someone would come as Judge Judy.”

Feedback: letters@biscaynetimes.com



The twin oaks are estimated to be 80 feet tall and nearly 100 years old.

Oak Tree

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Property owner Rosa de la Cruz, in an initial telephone interview, would not comment on the fate of the trees. Subsequent efforts to reach her, or to arrange a meeting with Brennan and her construction team, CDC Builders, were unsuccessful.

But George Perez, a local photographer and lover of trees, isn't willing to wait around and watch the oaks fall. Less than 48 hours after a public notice was posted on the de la Cruzes' property, announcing approval of the tree-removal application, he began researching the process by which the city's decision can be appealed. Because several city departments are involved (code enforcement, planning, parks, NET offices), and because no clear instructions were readily available, Perez called Miami's historic preservation officer, Ellen Uguccioni. She told him to put his objections in writing and bring them to her office, along with a check for \$150, the hefty fee prescribed by the city. Perez was set to do that on Monday, August 31.

Eventually his appeal will be heard by the city's Historic and Environmental



Arborist Bob Brennan says there are many ways to build a parking lot around the “fantastic” trees.

Preservation Board, likely at its October meeting. In the meantime, the trees are supposed to be protected.

With some luck, the 41st Street oaks could live for another 200 years, surviving several more generations of intrusive humans. That thought inspires Perez. “Somebody's got to do something,” he says, “otherwise they're going to kill those two trees.”

Staring up into the wide oak canopies during a recent visit to the site, he puzzles over the de la Cruzes' plans to destroy them.

“I don't get it,” he says. “They're building a museum. Do they love art and hate trees?”

Objections to the removal of the 41st Street oak trees must be filed within ten calendar days of the posted notice, meaning no later than Saturday, September 5. For more information, contact Miami's historic preservation officer, Ellen Uguccioni, at 305-416-1447 or Euguccioni@miamigov.com

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