

The 41st Street Oaks Live to See Another Day

Written by Terence Cantarella
October 2009

Or maybe another century, thanks to a couple of activists and many Miami tree lovers



On NE 41st Street, in the heart of Miami's Designed District, two majestic, 80-foot-tall Southern Live Oaks, estimated to be nearly 100 years old, narrowly escaped the chainsaw last month thanks to two Biscayne Corridor residents tired of witnessing the destruction of Miami's sparse tree canopy.

On August 26, Miami's Code Enforcement Department posted a sign on a vacant lot at 28 NE 41st Street announcing the approval of an application to cut down the two stately oaks. The applicants, art collectors Carlos and Rosa de la Cruz, hoped to make room for several more vehicles in a soon-to-be-built parking lot on their property, across the street from their new museum, which will showcase their world-renowned collection of contemporary art.

The approval did come with some conditions. Under the city's Master Tree Plan, an initiative that aims to restore Miami's denuded tree canopy, the de la Cruzes were required to either pay money into Miami's Tree Trust Fund or plant new replacement trees on their land. The number and size of the required replacement trees was determined by a formula based on the diameter of the trees being removed. In the case of the 41st Street Oaks, the formula was either 26 trees that are 12 feet tall, or 19 trees that are 14 feet tall.

Since those replacement trees couldn't reasonably be placed on their property, the de la Cruzes agreed to hire a contractor and have them planted in a public park instead -- the cost of which could have easily exceeded \$10,000.

But George Perez, a local photographer and lover of trees, and Miryam Rojas, who owns property adjacent to the future parking lot, felt that planting younger, smaller trees elsewhere in the city was a poor compromise for cutting down such regal, long-standing oaks.

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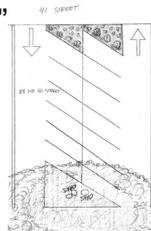
Less than 48 hours after Code Enforcement posted the notice on the de la Cruzes' property, Perez called Miami's historic preservation officer, Ellen Uguccione to find out how the city's decision could be appealed. She told him to put his objections in writing and bring them to her office, along with a check for \$150, the hefty fee prescribed by the city. He filed the paperwork on Monday, August 31, effectively stalling the trees' demise until his appeal could be considered by the city's Historic and Environmental Preservation Board at one of their upcoming monthly meetings.

Rojas followed suit, submitting not only a written appeal, but also sketches showing various ways the trees could be incorporated into the design of a parking lot.

Both Perez and Rojas cited a section of Miami's zoning code (Article 8.1, entitled "Tree Protection") in their letters -- which aims to ensure that "the design and construction of all development activity is executed in a manner consistent with the preservation of existing trees to the greatest extent possible." After reviewing the paperwork filed for the de la Cruzes' application, Perez and Rojas noted that efforts to preserve the trees were certainly not taken "to the greatest extent possible."

The *BT*'s September article "Solid as an Oak Tree, Dead as a Door Nail," which chronicled the plight of the 41st Street Oaks, triggered "a virtual flood of communications from city residents," according to historic preservation officer Uguccione. Among the letters was one from the Buena Vista East Historic Neighborhood Association, which is adjacent to the proposed parking lot. "The city has aimed for years to encourage the growth of a substantial tree canopy," wrote association president Brenda Kuhns Neuman, "and destruction of this tree is clearly adverse to that noble and practical interest."

Bob Brennan, a well-known Miami tree expert and chief arborist at Fairchild Tropical Botanic Garden, wrote directly to Rosa de la Cruz with his concerns after inspecting the "twin" trees: "I am sure you have artworks made by people who spent years, maybe lifetimes, creating images and objects to please the eye and perhaps soothe the soul. But I have yet to encounter manmade art that can change the earth's temperature or provide food and shelter to creatures large and small. Only living art can do that."



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Not long after the onslaught of protest letters, code enforcement's sign disappeared from the 41st Street lot and word reached the *BT* that the de la Cruzes had changed course, deciding to spare the oaks and design their new parking lot around the monumental trees. When reached by phone, property owner Rosa de la Cruz would not comment on the current status of the plans, saying that her construction team, CDC Builders, was handling everything. (The *BT* was unable to reach CDC for comment before press time.)

According to Miryam Rojas, who dealt with the Historic and Environmental Preservation office for her tree-removal appeal, the de la Cruzes are working with the city zoning department to have their "parking requirement" reduced so they can accommodate the oaks. Based on the size of their museum, the city requires them to provide a certain number of parking spots. Since the trees will occupy several of those spaces, they need the requirement lowered before they can be issued an occupancy permit. Despite repeated attempts, the *BT* was unsuccessful in reaching an authoritative code enforcement official who could elaborate on the negotiations.

Had the de la Cruzes decided to fight Perez and Rojas' appeal, they would have had to go before the city's Historic and Environmental Preservation Board and convince them that removal of the trees was absolutely necessary. But with Art Basel Miami Beach closing in, and a planned museum opening date in early December, the appeal process could have easily delayed construction of the parking lot and disrupted the de la Cruzes' plans.

Miryam Rojas is delighted by Rosa and Carlos de la Cruz's decision to keep the trees. "I've usually found that reputable builders are indeed approachable when it comes to questions and concerns of neighbors adjacent to their projects," she says. "I truly believe no regrets will be had. 'The Twins' are truly irreplaceable works of art. But then again, the proof is in the pudding. I need to see the parking lot completed with the trees standing in the middle."

George Perez shares her enthusiasm, and his experience has led him to believe there needs to be a way for residents to monitor tree-removal permits in Miami. "The thing is," he says, "you don't really know a tree is going to be cut down until ten days beforehand, and only if you happen to see the city's notice on the property."

He goes on to suggest that he may start some kind of citizens watch group. For now, though,

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he's sticking to what he does best: "I've decided to start a photo project on urban trees. It's easy to appreciate a beautiful tree in a meadow, but if it's in a junk yard, you don't even notice it."

With a vast collection of exquisite contemporary art, the de la Cruzes new museum will almost certainly become a popular attraction in the Design District. Their towering twin oaks, however, may prove to be one of their greatest assets.

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