

STAFF REPORT

DATE: July 9, 2021

RE: **Administrative Hearing for 805 Olivia Street (TC2021-0005)**

FROM: Karen DeMaria, City of Key West Urban Forestry Manager

On April 19, 2021, while driving by the property I noticed that a trench had been dug next to a protected strangler fig tree. Further inspection documented that several primary roots had been cut. No permits had been issued to cut the roots from this tree, the building permit has a condition that states no impacts will occur to the tree including its roots and canopy branches during construction, and City Code requires mechanical or auger type equipment to be used and not trenching when working this close to a protected tree.

The Strangler Fig tree is primarily located on 811 Olivia Street. The contractor did have a professional tree trimmer look at the tree roots and one root needed to be properly cut (the rest had clean cuts). Verbal permission was given to properly clean cut the one root then cover the area with clean sand/soil.

The owner of the tree and the person residing in 811 Olivia Street want the tree to remain. It is recommended that the tree root area receive regular watering to help reestablish root growth and the canopy be trimmed primarily on the 811 Olivia Street side to help balance and stabilize the tree.



Photo of tree prior to construction.



Two photos showing location of tree along property line prior to roots being cut.





Photo showing location of tree and trenching work.

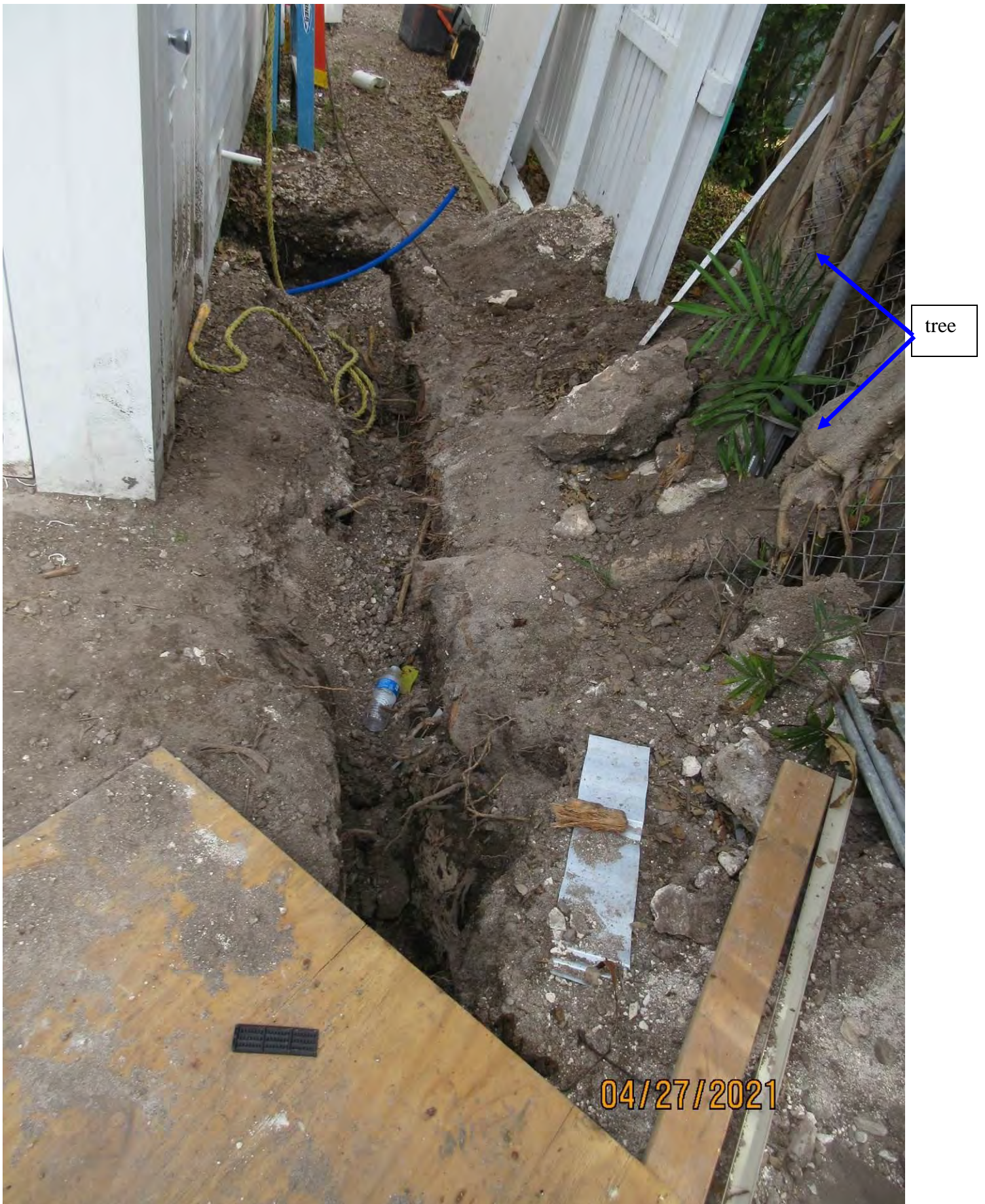


Photo showing trench and tree roots, view 1.



Two photos showing trench and tree roots, views 2 and 3.



Closer view of trench and cut roots.



Photo of tree from 805 Olivia side yard looking toward Olivia Street.



Photo of tree canopy-standing on Olivia Street looking at tree.

Additional Information

Karen DeMaria

From: Karen DeMaria
Sent: Friday, June 25, 2021 5:24 PM
To: Richard Divoll; Greg Oropeza
Cc: Sidney Magee; marjorie ingelsby
Subject: 805 Olivia St Tree Commission Hearing Notice
Attachments: 805 Olivia Admin Notice 7-13-21.pdf

Attached is a copy of the Administrative Hearing notice for the unauthorized root pruning that was done to the strangler tree at 805/811 Olivia Street. The work was done by the contractor, Divoll Construction and he or his representative must attend the meeting. I have copied Mr. Magee as he is the primary owner of the tree. Any remedy to the enforcement case must involve Mr. Magee. I do know that Marjorie Ingelsby lives at the location and helps Mr. Magee regarding the tree so I have copied them both on this e-mail.

I will be recommending that the whole tree be properly trimmed by a certified arborist/licensed tree trimmer to balance the canopy and reduce some of the weight on the 811 side since the roots have been cut along the 805 side of the tree. There might be a requirement to have the tree evaluated by an arborist in 1-3 years to determine if any additional remedial action needs to be taken. Of course, this would all be paid for by Divoll Construction and supervised by the City Urban Forestry Manager.

Sincerely,
Karen

Karen DeMaria

Karen DeMaria
Urban Forestry Manager
Certified Arborist FL-6585A
City of Key West
305-809-3768



Karen DeMaria

From: Karen DeMaria
Sent: Wednesday, May 26, 2021 8:37 AM
To: John Cole
Cc: Greg Oropeza; Richard Divoll
Subject: RE: [EXTERNAL] 801 Olivia

Thank you. The area can be filled in now.

Sincerely,

Karen

From: John Cole <shadetreeservices@yahoo.com>
Sent: Wednesday, May 26, 2021 8:24 AM
To: Karen DeMaria <kdemaria@cityofkeywest-fl.gov>
Subject: [EXTERNAL] 801 Olivia

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Sincerely

John Cole



Karen DeMaria

From: Karen DeMaria
Sent: Monday, May 10, 2021 5:14 PM
To: Greg Oropeza; richard@divollconstruction.com
Cc: Kate Divoll
Subject: 805 Olivia Street

All:

I have done my inspection of 805 Olivia Street and I spoke to John Cole (Shade Tree) about the tree roots of the protected strangler fig tree. It appears there is at least one main root that was severed and not clean cut so that root needs to be cut cleanly and then photographed. Once I receive the photo showing that the work has been done the trench can be filled in.

I will be initiating an enforcement case in front of the Tree Commission for the cutting of the roots and for violation of the condition of the building permit. Most of the tree is owned by 811 Olivia. My concern is that the tree canopy was lopsided due to all the trimming on the 805 side of the tree that the canopy must be trimmed on the 811 side of the tree in order to stabilize the tree. Trimming along with watering of the root system will need to be done to make sure the tree becomes stable and survives long term. I will be setting the Tree Commission meeting date for Monday, June 7 unless you wish to have more time then we can set it for the July 13 meeting. The actual owner of the tree must be involved in any decision making and I am in contact with the representative for the property, Marjorie. Based on my professional experience, if taken care of properly (watering and trimming) the tree will be fine for the future. I do recommend you have a certified arborist create a work plan for the tree and contact my office to discuss.

Sincerely,

Karen

Karen DeMaria

Karen DeMaria
Urban Forestry Manager
Certified Arborist FL-6585A
City of Key West
305-809-3768



Karen DeMaria

From: Karen DeMaria
Sent: Thursday, April 22, 2021 9:18 AM
To: Greg Oropeza
Subject: RE: 805 Olivia St--Strangler Fig tree

I will need to do a site inspection. I was looking at that tree last week at the request of the neighbor who had concerns since they keep seeing people cutting the tree branches so the tree canopy is mostly one sided now. I know I had a condition on the main building permit regarding impacts to this tree so I do need to do more research. I will keep you in the loop but ultimately it will be an administrative hearing in front of the Tree Commission.

Sincerely,

Karen

From: Greg Oropeza <greg@oropezastonescardenas.com>
Sent: Thursday, April 22, 2021 8:34 AM
To: Karen DeMaria <kdemaria@cityofkeywest-fl.gov>
Subject: RE: 805 Olivia St--Strangler Fig tree

Hi Karen,

I represent the owner of 805 Olivia. Let me know your thoughts on what you would be looking for to remedy/remediate this since the work in question has been done already.

Fortunately I haven't had a client do something like this in a while!

Greg

Gregory S. Oropeza, Esq.



221 Simonton Street
Key West, Florida 33040
Tel: 305.294.0252
Fax: 305.402.2802
Oropezastonescardenas.com

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Please note: This law firm may be deemed a "debt collector" under the Fair Debt Collection Practices Act. Any and all information obtained during and from communications may be used for the purpose of collecting debt.

----- Forwarded message -----

From: Karen DeMaria <kdemaria@cityofkeywest-fl.gov>

Date: Wed, Apr 21, 2021 at 1:51 PM

Subject: 805 Olivia St--Strangler Fig tree

To: kate@divollconstruction.com <kate@divollconstruction.com>, richard@divollconstruction.com <richard@divollconstruction.com>

Richard and Kate:

Monday, while driving past 805 Olivia Street, I noticed a crew using a machine to dig a trench next to a protected strangler fig tree. When I stopped I saw that roots had been cut within 2 feet of the base of the tree (see attached photos). This is a violation of City ordinances which requires bore hole not trenching when working in the critical root zone of a tree. Also, a permit is required from my office to cut tree roots. Please contact my office so we can discuss the situation and to set up a site visit.

Sincerely,

Karen

Karen DeMaria

Karen DeMaria

Urban Forestry Manager

Certified Arborist FL-6585A

City of Key West



THE CITY OF KEY WEST

1300 White Street, Key West, Florida 33040

PERMIT NUMBER

BLD2019-2529

FLOODPLAIN MULTI FAMILY HOME PERMIT

PERMIT TYPE: MULTI FAMILY HOME

Issued: 5/15/2020

PERMIT SUB TYPE : HARC

Expires: 5/5/2022

Application By: DIVOLL CONSTRUCTION INC
RICHARD DIVOLL (QUALIFIER)
KEY WEST, FL 33040

On Property Of: 805 OLIVIA St

Scope of Work

Conditions Apply ____

Construct NEW Building as described in plans by William Shepler, Architect. Wood Frame Building consists of approx. 672 SF ground level storage, 728 SF Second floor living area, 816 SF loft living/storage area, 300 SF ground level decking, 117 SF elevated balcony, 1 exterior staircase, 2 interior staircases. 20 impact windows. 11.5 LF Kitchen cabinets, 3 Full bathrooms, 1 half bathroom, Hardi-board siding. Exterior Paint. Moore Moore Glo White ***** NOC Required & HARC Inspection **** (FH)
****No impacts authorized to occur to any trees or palms including their roots and canopy branches. *KKD****
++Approved for the two story structure only, all other structures will need to be approved on different building permits (deck, pool, mechanical equipment) ++DAS++
++No parking on gravel area in front of 805 olivia home++DAS++

WARNING TO OWNERS

YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY PRIOR TO RECORDING YOUR NOTICE OF COMMENCEMENT.

Notice: In addition to the requirements of this permit, there may be additional restrictions applicable to this property that may be found in the public records of this county, and there may be additional permits required from other governmental entities such as water management districts, state agencies, or federal agencies.

- This card and approved plans must be posted in a location clearly visible from the street.
- The location of construction must have posted a clearly legible address visible from the street.

PERMIT VOID IF CONSTRUCTION IS NOT STARTED WITHIN 180 DAYS.
Commercial construction allowed M-F 8:00 am – 7:00 pm, Saturday 9:00 am – 5:00 pm.

INSPECTIONS

Type _____
Approved _____ By _____
Date ____/____/____

Type _____
Approved _____ By _____
Date ____/____/____

****FINAL****
Approved _____ By _____
Date ____/____/____

Building Official:

Issued By: **Marybeth Barter**

Date: **5/15/2020**

