

**RID (Rule Interpretation Decision)**

(Use additional sheets as necessary)

Type of RID	Requested Response Time	DSD Assigned RID # <b>121</b>
Customer RID <input type="checkbox"/>	24 hours <input type="checkbox"/>	
Internal Staff RID <input checked="" type="checkbox"/>	5 working days <input type="checkbox"/>	
	As time available <input checked="" type="checkbox"/>	

**1. Project Name:** Tree Permits, Tree Preservation Plans and Affidavits**2. Project Number:** None  
(Plat #, Zoning Case #, etc.)**3. Project Street Address:** None  
(If not available nearest intersection of two public streets)**4. Applicant Name:** Development Service Staff, Land Development Plans & Permits  
(Thomas Carrasco)**5. Applicant Address:** 1901 S. Alamo**6. Applicant Telephone #:** (210) 207-0265**7. Applicant e-mail Address:** NA**8. Rule in Question:**

35-477 Tree Permits  
(b)(2) Affidavit; and  
(i) Scope of Approval, (1) and (2).

**9. Applicant's Position:**

(Including date position presented and name of city staff point of contact)

**Date:** 9/13/2013    **Contact:** Pablo G. Martinez    **Contact Telephone #:** (210) 207-0265

The tree permits section presently indicates that an affidavit can be submitted in lieu of a preservation plan along with some required fees and information. Currently the tree permit and affidavit is in the same application form. Staff wants to discourage the interpretation that the affidavit and tree permit are two different applications and that you can use one in lieu of the other. The affidavit is part of a tree permit, not a separate permit.

In addition, Section 35-477 (j) Tree Permits - Scope of approval section presently uses the term "tree preservation permit" unintentionally confusing some readers as being different than a tree permit. In other words, there is no other section of the UDC that addresses tree preservation permits as being different than a tree permit. Therefore, it is simply a tree permit.

There is also confusion in identifying the life of a tree permit. It is intended to be for the longer of: the underlying permit (i.e. building permit, plat, etc...) or 180 days if it was obtained solely for the removal of trees (i.e. a stand alone project).

The UDC is currently written as follows:

**35-477 Tree Permits**

**(b) Initiation**

**(2) Affidavit.** *In lieu of a tree preservation plan, an applicant may submit a notarized tree affidavit with fees and required information verifying that no significant or heritage trees required to be counted for calculating minimum tree preservation requirements will be damaged or removed as a result of the application or receipt of the approval requested.*

**(i) Scope of Approval.** *A tree preservation permit shall remain valid for the longer of:*

**(1)** *The period of validity of the permit or authorization that triggered the requirement for obtaining the tree preservation permit (i.e. building permit, plat, etc.); or*

**(2)** *One hundred eighty (180) days from the date of issuance if the tree permit was obtained solely for the removal of trees.*

It is necessary to clarify that the life of the tree permit is good for the life of the underlying permit as long as the dormancy requirements are met. In the case of a tree permit that is tied to a Building Permit, the tree permit is good for the life of the building permit. In the case of Plats, the tree permit is good for the life of the plat and subject to the dormancy requirements. In other words, the project must have activity within the next 5 years to continue to be valid for more than 5 years. Validation and review will be done at the 5 year period after the tree permit was issued.

In addition, the 180 days validity is intended to be applied to stand alone projects. In other words, tree permits not tied to a plat, building permit, MDP, etc... and obtained solely for the removal of trees. No other construction activity implied.

**10. Staff Finding:**

(Including date of finding and name of city staff person formulating finding)

**Date:** 9/13/2013    **Contact:** Pablo G. Martinez    **Contact Telephone #:** (210) 207-0265

City staff has interpreted in the past that permits without a preservation plan are valid for 180 days only. All permits with approved tree preservation plans and that are tied to any other permit such as building permits, plats, etc... are valid for the life of that underlying permit. It is also staff's intent to clarify that the validity of the permit is subject to dormancy requirements.

Staff proposes that the 180 days in section "(2) Scope of approval" needs to clearly identify the type of tree permit(s) applicable. In other words, which type of tree permits will have validity for only 180 days and not for the life of the underlying permit. It is recommended that only tree permits that are obtained for stand alone projects will be good for 180 days.

Staff also agrees that in section "(1) Scope of approval" the term tree preservation permit confuses some readers as being different than a standard tree permit. Tree preservation permit should be simply a tree permit.

### 11. Staff Position:

(Including date position presented internally and name of city staff person formulating position)

**Date:** 9/13/2013      **Contact:** Pablo G. Martinez      **Contact Telephone #:** (210) 207-0265

Staff's position is consistent with current practice and the intent of the code, which is that section "(1) Scope of approval" is referring to all tree permit applications with or without a tree preservation plan. Hence the word "preservation" is not needed. In addition the life of the tree permit that is tied to a Plat, building permit, MDP, etc....shall be good for the life of the underlying permit subject to the dormancy requirements.

It is also staff's interpretation that only an approved tree preservation plan gives the applicant the approval to clear trees in phases and for extended amounts of time as long as the applicant abides by the conditions of the permit and the preservation plan. Tree permits associated with a plat will remain valid for any activity associated with the plat and meets the tree permit requirements. Any other activity associated with a building phase or permit shall require a separate tree permit, unless a preservation plan has been approved and is still valid.

Tree affidavits are only accepted when there are no trees on site or the activity will not harm or cause harm to any significant trees, heritage trees or tree canopy that will be counted for minimum preservation requirements. Otherwise, a tree permit with a preservation plan will be required. Staff proposes to modify the forms for tree permits with the affidavit and preservation plan options. Tree affidavits will be good for the life of the underlying permit and also subject to dormancy requirements.

All stand alone projects not tied to a plat, building permit, MDP, etc... will be good for 180 days only.

### 12. Departmental Policy or Action:

(Including date of presentation of policy or action to the applicant, the effective date of the policy or action, schedule for pursuing an amendment to the code if required and signature of the Director of Development Services)

**Date of policy/action:** 9/13/2013      **Effective Date of policy/action:** 10/1/2013

The Director concurs with staff and recommends and directs the issuance of RID 121 as follows:

- The tree permits with a tree preservation plan will be valid for the life of the project tied to the plat, building permit, master development plan, etc.... The validity will be subject to dormancy requirements. If the underlying permit is a building permit then the tree permit is good for the life of the building permit; if the underlying permit is a plat then the tree permit is good for the life of the plat and subject to dormancy requirements. The same applies to MDP's, PUD's, etc....
- Tree affidavits are only accepted when there are no trees on site or the activity will not harm or cause to be harmed any significant trees, heritage trees or tree canopy that will be counted for minimum preservation requirements. Otherwise, a tree permit with a preservation plan will be required. Tree Affidavits will be good for the life of the underlying permit and subject to dormancy requirements.
- All tree permits for stand alone projects and not tied to any other permit, such as plats, building permits, MDP, etc.... will be good for 180 days only.
- Master Tree permits will only be considered for projects with a master tree preservation plan.

In addition the following amendments will be proposed for the next round of UDC amendments to clarify the UDC and support this RID:

**35-477 Tree Permits**

**(b) Initiation**

**(2) Affidavit.** *In lieu of a tree preservation plan, an applicant may submit a notarized tree affidavit with fees and required information verifying that no significant, ~~or heritage trees,~~ or tree canopy required to be counted for calculating minimum tree preservation requirements will be damaged or removed as a result of the application or receipt of the approval requested.*

**(i) Scope of Approval.** *A tree ~~preservation~~ permit shall remain valid for one of the two the longer of:*

**(1)** *The period of validity of the permit or authorization that triggered the requirement for obtaining the tree preservation plan and tree permit approval (i.e. building permit, plat, etc.); or*

**(2)** *One hundred eighty (180) days from the date of issuance if the tree permit approval ~~was obtained solely for the removal of trees~~ was for a stand alone activity (tree removal) not associated with any other permit.*



Roderick Sanchez, AICP, C.B.O  
Director Development Services Department