

# 81-5

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WHEN RECORDED MAIL TO:  
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City of Riverside  
City Hall, 3900 Main Street  
Riverside, California 92522

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APR 18 1997

Recorded in Official Records  
of Riverside County, California

Recorder  
Fees \$ 21

Project: Plan Check for  
10015 Victoria Avenue  
Riverside, California

FOR RECORDER'S OFFICE USE ONLY

CIA  
3/5  
82

AMENDMENT TO COVENANT AND AGREEMENT  
AND DECLARATION OF RESTRICTIONS;  
AND CONSENT OF THE PLANNING DIRECTOR  
TO SUCH AMENDMENT

THIS AMENDMENT TO COVENANT AND AGREEMENT AND DECLARATION OF RESTRICTIONS is made and entered into this 17<sup>th</sup> day of April, 1997, by ALFRED O. STEWART and DOLORES M. STEWART, husband and wife (collectively, "Declarants"), with reference to the following facts:

A. Declarants are the fee owners of the following described real property ("the Property") situated in the City of Riverside, County of Riverside, State of California:

That portion of Lot 3 of BALMORAL HEIGHTS, as shown by map on file in Book 11, page 93 of Maps, records of Riverside County, California, described as follows:

Beginning at a point on the Northwesterly line of Victoria Avenue, South 56° West 287 feet from the most Easterly corner of said Lot;

Thence North 34° West parallel with the Northeasterly line of said Lot, 652 feet to the Northwesterly line of said Lot;

Thence South 56° West of the Northwesterly line of said Lot, 95 feet to the most Westerly corner of said Lot;

Thence South 34° East on the Southwesterly line of said Lot, 652 feet to the Northwesterly line of Victoria Avenue, being the most Southerly corner of said Lot;

4.2.97  
Cheryl S. [Signature]

Thence North 56° East on the Northwesterly line of Victoria Avenue, 95 feet to the Point of Beginning.

B. The Property, known as 10015 Victoria Avenue, Riverside, California, is in the Residential Agricultural Five Acre ("RA-5") Zone and is developed with a single-family residence with carport. Declarants have proposed to build a guest house on the Property.

C. "Guest house" is defined by Section 19.04.165 of the Riverside Municipal Code to mean living quarters within an accessory building located on the same premises with the main building, for use by temporary guests of the occupants of the premises, having no kitchen, and not rented or otherwise used as a separate dwelling.

D. At the time Declarants sought to obtain the building permit for the guest house, the Zoning Code of the City of Riverside required a variance for the construction of the new guest house, as well as the existing carport, for placement closer than one-half the lot depth of the Property. However, the Planning Department of the City of Riverside determined that a variance would not be required if the guest house was attached to the carport by means of a covered walkway, and the carport was attached to the main residence by means of a covered walkway.

E. As a condition to the approval by the Planning Department of the City of Riverside of the plans for the guest house, Declarants were required to execute and record a covenant and agreement stating that the guest house would not contain kitchen facilities, nor be used as a separate residence, and would be attached to the carport by means of the covered walkway, and the carport would be attached to the residence by means of a covered walkway. Such Covenant and Agreement and Declaration of Restrictions was executed by Declarants on August 29, 1996, and recorded the same day as Instrument No. 327644 in the Official Records of Riverside County, California.

F. Since the recording of the Covenant and Agreement and Declaration of Restrictions, the City of Riverside has processed an amendment to Title 19 of the Riverside Municipal Code in Case AM-007-956 that eliminates the requirement that accessory structures be located in the rear half of interior residential lots. Declarant now desires to eliminate the requirement in the recorded Covenant and Agreement and Declaration of Restrictions that the guest house is to be attached to the existing carport by means of a covered walkway and the existing carport is to be attached to the existing residence by means of a covered walkway in accordance with the

plans submitted to and approved by the Planning Department of the City of Riverside.

NOW, THEREFORE, incorporating the above facts and with the consent of the Planning Director of the City of Riverside, Declarants hereby amend in its entirety the Covenant and Agreement and Declaration of Restrictions dated August 29, 1996, and recorded August 29, 1996, as Instrument No. 327644, Official Records of Riverside County, California, and covenant and agreement with the City of Riverside that the of the following restrictions shall apply to the Property:

1. The single-family house and the guest house shall be used as one dwelling unit.

2. No kitchen facilities shall be permitted, maintained or installed in the guest house.

3. Neither the guest house nor the existing residence shall be sold, rented or leased separately from the other.

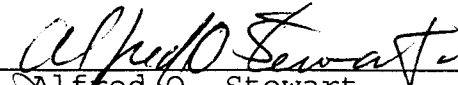
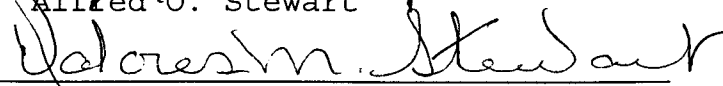
4. Except as otherwise permitted by the provisions of Title 19 of the Riverside Municipal Code, no commercial or business activity shall be conducted on the Property.

5. The on-site covered parking required by Title 19 of the Riverside Municipal Code shall be maintained at all times.

6. The terms of this Covenant and Agreement and Declaration of Restrictions may be enforced by the City of Riverside, its successors and assigns. Should the City of Riverside bring an action to enforce any of the terms of this Covenant and Agreement and Declaration of Restrictions, the prevailing party shall be entitled to court costs, including reasonable attorneys' fees.

7. This Covenant and Agreement and Declaration of Restrictions shall run with the land and each and all of its terms shall be binding upon Declarants, their heirs, successors and assigns, and shall continue in effect until such time as released by the Planning Director of the City of Riverside, California, by a writing duly recorded.

IN WITNESS WHEREOF Declarants have caused this Amendment to Covenant and Agreement and Declaration of Restrictions to be executed the day and year first written above.

  
 Alfred O. Stewart  
  
 Dolores M. Stewart

CONSENT TO AMENDMENT TO  
COVENANT AND AGREEMENT  
AND DECLARATION OF RESTRICTIONS

THIS CONSENT TO AMENDMENT TO COVENANT AND AGREEMENT AND DECLARATION OF RESTRICTIONS is made by the Planning Director of the City of Riverside with reference to the following facts:

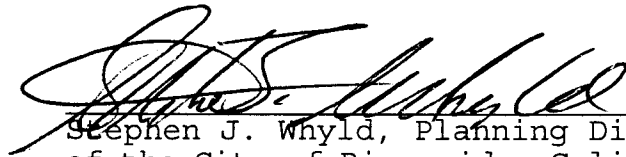
A. The Covenant and Agreement and Declaration of Restrictions executed by Alfred O. Stewart and Dolores M. Stewart on August 29, 1996, and recorded the same day as Instrument No. 327644, Official Records of Riverside County, California may not be released except with the prior written consent of the Planning Director of the City of Riverside ("Planning Director") duly recorded.

B. The Planning Director has read the Amendment to Covenant and Agreement and Declaration of Restrictions hereinabove provided and approves of such Amendment.

NOW, THEREFORE, the Planning Director of the City of Riverside hereby consents to the Amendment to Covenant and Agreement and Declaration of Restrictions set forth above and authorizes the recordation of this Amendment and his consent thereto.

Dated:

*April 17, 1997*



Stephen J. Whyld, Planning Director  
of the City of Riverside, California

Approved as to Form:



Assistant City Attorney

State of California )  
 ) ss  
County of Riverside )

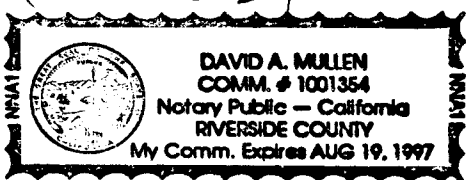
On April 17, 1997, before me, the undersigned,  
a Notary Public, in and for said State, personally appeared

Alfred O. STEWART and  
Dolores M. STEWART

~~personally known to me~~ (or proved to me on the basis of  
satisfactory evidence) to be the person(s) whose name(s) ~~is/are~~  
subscribed to the within instrument and acknowledged to me that  
~~he/she/they~~ executed the same in ~~his/her/their~~ authorized  
capacity(ies), and that by ~~his/her/their~~ signature(s) on the  
instrument the person(s), or the entity upon behalf of which the  
person(s) acted, executed the instrument.

WITNESS my hand and official seal.

David A. Mullen  
Signature



~~State of California )  
 ) ss  
County of Riverside )~~

~~On April , 1997, before me, the undersigned, a Notary Public  
in and for said State, personally appeared STEPHEN J. WHYLD,  
personally known to me (or proved to me on the basis of  
satisfactory evidence) to be the person whose name is subscribed to  
the within instrument and acknowledged to me that he executed the  
same in his authorized capacity, and that by his signature on the  
instrument the person, or the entity upon behalf of which the  
person acted, executed the instrument.~~

~~WITNESS my hand and official seal.~~

~~Stephen J. Whyld  
Signature~~

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

No. 5907

State of California  
County of Riverside

On April 17, 1997 before me, Eva A. Correa, Notary Public  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Stephen J. Whyld  
NAME(S) OF SIGNER(S)

personally known to me - **OR** -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Eva A. Correa  
SIGNATURE OF NOTARY

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

**CAPACITY CLAIMED BY SIGNER**

- INDIVIDUAL
- CORPORATE OFFICER
- \_\_\_\_\_ TITLE(S)
- PARTNER(S)       LIMITED
- GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

**DESCRIPTION OF ATTACHED DOCUMENT**

\_\_\_\_\_  
TITLE OR TYPE OF DOCUMENT

\_\_\_\_\_  
NUMBER OF PAGES

\_\_\_\_\_  
DATE OF DOCUMENT

**SIGNER IS REPRESENTING:**  
NAME OF PERSON(S) OR ENTITY(IES)

\_\_\_\_\_  
SIGNER(S) OTHER THAN NAMED ABOVE