

DECLARATION OF COMMITMENTS

THIS DECLARATION, made this 13th day of September, 1988, by Robert Carter Altum (hereinafter referred to as Buyer), and Joseph C. Miller and Margaret M. Miller (hereinafter referred to as Sellers), WITNESSETH:

WHEREAS, Joseph C. Miller and Margaret M. Miller are the Owners and Contract Sellers of all of the real estate described in Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, Robert Carter Altum is the Contract Purchaser of all the real estate described in Exhibit "A", attached hereto and made a part hereof, and is the Owner of Altum Gardens, a garden shop, landscape contracting, and plant nursery business, to be established on said real estate (hereinafter known as the Property); and

WHEREAS, the Buyer and Sellers are seeking a change in the Property's zoning classification, from S-1 to B-3, and desire to impose upon the property certain conditions and restrictions (hereinafter referred to as Restrictions) that will enhance the stability of local land use patterns and provide for the orderly and attractive future development of the Property, for the surrounding community and future owners thereof;

NOW, THEREFORE, the Buyer and Sellers hereby declare that all the Property as it is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, or occupied and improved, is subject to the following Restrictions. All of the Restrictions shall run with the land and shall be binding upon the Buyer, his heirs and assigns, and all parties having an interest in and to the real property or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of the Buyer and every one of his successors in title to any real estate in the Property. The Buyer specifically confers the exclusive right or privilege of limiting or dissolving these Restrictions and their future applicability upon the Carmel Plan Commission.

1. CERTAIN LAND USES PERMITTED. The following is a list of land uses which, pursuant to zoning classification regulations, shall be permitted as uses of the Property:

- A. Artificial lake or pond.
- B. Commercial greenhouse.
- C. Craft and hobby shop (related to outdoor accessories, landscaping, or plant material, both real and artificial).

- D. Garden shop.
- E. Porch/patio and outdoor furniture store.
- F. Sales and storage of landscaping and building materials (both enclosed and unenclosed).
- G. Plant nursery.
- H. Wholesale or retail sales of goods and services commonly associated with garden shop/nursery/landscaping uses.
- I. General offices.
- J. Flower shop.
- K. Landscape contracting.
- L. Coffee shop/food service limited to use by patrons of the primary use.

All other land uses listed as permitted by the Carmel Zoning Ordinance, Ordinance #Z-160, as amended, in the B-3 district classification are prohibited unless otherwise specified by the Carmel Plan Commission.

2. MICHIGAN ROAD/S.R. 421 CORRIDOR OVERLAY ZONE. From the date of recording an ordinance defining the property as B-3 pursuant to Carmel City Ordinance #Z-160, no structure shall be placed on the property, nor shall any site development plan or landscaping be executed without prior Plan Commission review of the development plan pursuant to the procedures for review as described in said Ordinance #Z-160. The requirement for the review of the Overlay Zone shall continue until the procedure for such review is deleted from Ordinance #Z-160, until such ordinance is repealed, or until the Plan Commission relieves this property of this restriction.

IN WITNESS WHEREOF, Buyer has executed this instrument, on this 13th day of September, 1988.

Robert Carter Altum
Robert Carter Altum

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

SUBSCRIBED AND SWORN to me, a Notary Public in and for said County and State, this 13th day of September, 1988.

William E Wendling Jr

Printed: William E Wendling Jr
Notary Public

Resident of Hamilton County

My Commission Expires:

May 1 1992

IN WITNESS WHEREOF, Sellers have executed this instrument, on this 13th day of September, 1988.

Joseph C. Miller
Joseph C. Miller

Margaret M. Miller
Margaret M. Miller

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

SUBSCRIBED AND SWORN to me, a Notary Public in and for said County and State, this 13th day of September, 1988.

William E Wendling Jr

Printed: William E Wendling Jr
Notary Public

Resident of Hamilton County

My Commission Expires:

5/1/92

This document prepared by William E. Wendling, Attorney At