

W. 3. E. 6.

**Agenda Cover Memo**



**Memo Date:** August 15, 2007  
**Order Date:** August 29, 2007, (Consent Calendar)

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**TO:** Board of County Commissioners  
**DEPARTMENT:** Public Works Dept./Land Management Division  
**PRESENTED BY:** KENT HOWE, PLANNING DIRECTOR

**AGENDA ITEM TITLE:** Order No. : In the Matter of Approving and Authorizing the County Administrator to Sign a Release of Conditions Set Forth in a 1968 Agreement Between Lane County and a Property Owner of Land Now Located Within the City of Springfield. (Map 18-02-05.23, tax lot 100)

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**I. MOTION:**

Move adoption of the Order to approve joint release of the 1968 agreement.

**II. ISSUE OR PROBLEM**

On February 28, 1968, the Board of County Commissioners adopted Ordinance No. 277 authorizing a zone change for a 6 acre property located on "Q" Street just outside the City of Springfield described as Assessor's Map 18-02-05.2 tax lot 2300 (Now Assessor's Map 18-02-05.23 tax lot 100) from Suburban Residential (RA) to Neighborhood Commercial (C-2) to allow construction of a shopping center. The rezoning action resulted in an agreement between Lane County and the owner of the property, Donald E. Cooper regulating development of the property. The property has been annexed and is subject to City of Springfield development regulations. The City of Springfield has requested joint release of the agreement.

**III. DISCUSSION**

**A. BACKGROUND**

The City of Springfield is working with the Lane County Relief Nursery on a real property sale for construction of a facility on property located in the City of Springfield. In 1968, an agreement between Lane County and the property owner at that time required permanent vegetative screening or fencing along the west and north property boundaries, that the first building improvement be for a grocery store,

and that the agreement run with the land and be binding on future property owners. The 1968 agreement was reached as part of a rezoning action taken by the Board of County Commissioners on February 28, 1968. The property has been annexed to the City of Springfield since then and the agreement is unnecessary. The property is subject to City of Springfield development regulations.

## **B. ANALYSIS**

The City of Springfield is asking that Lane County join in releasing this agreement because the jurisdictional responsibility for the subject property was transferred from Lane County to the City of Springfield. It is zoned Community Commercial and any future development of the property would need to be done in accordance with applicable provisions of the Springfield Development Code (SDC).

The Community Commercial zone of the SDC fully implements the Metro Plan designation of Community Commercial Center, providing for a wide range of retail sales, service and professional office use. The 1968 agreement is an encumbrance on the property that does not change the need for compliance with the applicable requirements set forth in the SDC. Lane County has no further regulatory role to play in the specific development requirements applicable to that property and there is no need for the county to retain the agreement conditions. Joint release of the agreement will clear the title to the property and make it clear the conditions will not limit development of the property at this time.

## **C. CONCLUSION**

Because the jurisdictional responsibility for the subject property was transferred from Lane County to the City of Springfield, the property has been zoned Community Commercial in accordance with the Springfield Development Code (SDC) and the Community Commercial zone fully implements the Metro Plan designation of Community Commercial Center, it appears it is appropriate for Lane County to jointly release the conditions contained in the 1968 agreement so that the property is unencumbered and can be developed in accordance with the Metro Plan and the City of Springfield Development Code.

## **RECOMMENDATION**

The Board should adopt the attached Order to approve and authorize the County Administrator to sign a joint release of Conditions 1, 2 and 3 as set forth the in the 1968 agreement between Lane County and Donald E. Cooper.

**Attachments:** 1) Order No. \_\_\_\_ and attached Joint Release document  
2) Ordinance No. 277 and public hearing notice  
3) 1968 Agreement  
4) City of Springfield letter from Joe Leahy dated May 22, 2007  
5) City of Springfield letter from Joe Leahy dated July 24, 2007

**BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY,  
OREGON**

**ORDER No.**

) IN THE MATTER OF APPROVING  
) AND AUTHORIZING THE COUNTY  
) ADMINISTRATOR TO SIGN A JOINT  
) RELEASE OF CONDITIONS SET FORTH IN A  
) 1968 AGREEMENT BETWEEN LANE COUNTY  
) AND A PROPERTY OWNER OF LAND NOW  
) LOCATED WITHIN THE CITY OF SPRINGFIELD.  
) (Map 18-02-05.23, tax lot 100)

**WHEREAS**, the Board of County Commissioners of Lane County enacted Ordinance No. 277 on February 28, 1968, to rezone certain land that was located outside the City of Springfield described as Assessor's Map 18-02-05.2 tax lot 2300 (currently Assessor's Map 18-02-05.23 tax lot 100) from Suburban Residential (RA) to Neighborhood Commercial (C-2); and

**WHEREAS**, the Ordinance No. 277 action was based on conditions included in an agreement between Lane County and the property owner at that time, Donald E. Cooper; and

**WHEREAS**, the agreement with Donald E. Cooper encumbered the property with conditions requiring permanent vegetative screening or fencing along the west and north property boundaries, that the first building improvement permit be for a grocery store, and that the agreement run with the land and be binding on future property owners; and

**WHEREAS**, the City of Springfield has asked that Lane County join in the release of this agreement because the jurisdictional responsibility for the subject property was transferred from Lane County to the City of Springfield and was zoned Community Commercial in accordance with the Springfield Development Code (SDC) and the Community Commercial zone of the SDC fully implements the Eugene/Springfield Metropolitan Area General Plan designation of Community Commercial Center, providing for a wide range of retail sales, service and professional office use; and

**WHEREAS**, the City of Springfield has prepared and executed a joint release of the 1968 agreement and the conditions imposed by that agreement based on application of the Springfield Development Code regulations to any development proposal; and

**WHEREAS**, this matter having been fully considered by the Lane County Board of Commissioners.

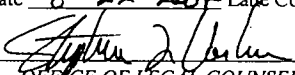
**NOW, THEREFORE IT IS HEREBY ORDERED** that the 1968 property development agreement and Conditions 1, 2 and 3 as set forth in the Agreement between Lane County and

Donald E. Cooper, dated February 28, 1968, recorded March 1, 1968, Reel No. 381-R, recorder's reception no. 15978, Lane County Official Records be released jointly and the County Administrator is authorized to execute a release of the agreement in a document substantially similar to Exhibit "A" attached and incorporated here by this reference and that this release of said conditions shall render them null and void and of no further force and effect with respect to the real property described as Assessor's Map 18-02-05.23 tax lot 100.

**DATED** this \_\_\_\_\_ day of August, 2007.

\_\_\_\_\_  
Faye Stewart, Chair  
Lane County Board of County Commissioners

APPROVED AS TO FORM

Date 8-22-2007 Lane County  
  
\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL

After recording return to:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Unless requested otherwise,  
 send all tax statements to:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### JOINT RELEASE

Lane County, a Political Subdivision of the State of Oregon, and the City of Springfield, a municipal corporation of the State of Oregon, hereby release Conditions 1, 2 and 3 as set forth in that certain Agreement made and entered into by and between Lane County, a Political Subdivision of the State of Oregon, and Donald E. Cooper, dated February 28, 1968; recorded March 1, 1968, Reel No. 381-R; recorder's reception no. 15978, Lane County Official Records.

Subsequent to the execution and recording of the February 28, 1968 Agreement, the jurisdictional responsibility for the property subject to that agreement was transferred from Lane County to the City of Springfield and was zoned Community Commercial in accordance with Springfield Development Code Section 18.010(2).

The City of Springfield Community Commercial District is intended to fully implement the Metro Plan Community Commercial Center designation and any applicable refinement plan. This District designates sites to provide for a wide range of retail sales, service and professional office use.

Any application for development of a specific use on the real property described in the February 28, 1968 Agreement would need to be in accordance with the City of Springfield Development Code.

This Release renders Conditions 1, 2 and 3 as described herein null and void and of no further force and effect with respect to the real property described herein.

### LANE COUNTY

By:

William A. Van Vactor

Its:

County Administrator

Date:

### CITY OF SPRINGFIELD

By:

Gino Grimaldi

Its:

City Manager

Date:

7/24/07

By:

Bill Grile

Its:

Development Services Director

Date:

7/24/2007

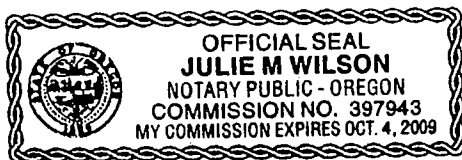
STATE OF OREGON   )  
                                  ) ss.  
County of Lane       )

Personally appeared before me this \_\_\_\_\_ day of \_\_\_\_\_, 2007 the above named William A. Van Vactor, County Administrator for Lane County, and acknowledged the foregoing instrument to be his/her voluntary act and deed.

\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_

STATE OF OREGON   )  
                                  ) ss.  
County of Lane       )

Personally appeared before me this 24<sup>th</sup> day of July, 2007 the above named ~~Gino Grimaldi~~, Bill Grice, Development Services Director City Manager for the City of Springfield, and acknowledged the foregoing instrument to be his/her voluntary act and deed.



Julie M. Wilson  
Notary Public for Oregon  
My Commission Expires: 10-4-09

STATE OF OREGON   )  
                                  ) ss.  
County of Lane       )

Personally appeared before me this 24<sup>th</sup> day of July, 2007 the above named Gino Grimaldi, City Manager for the City of Springfield, and acknowledged the foregoing instrument to be his/her voluntary act and deed.



Julie M. Wilson  
Notary Public for Oregon  
My Commission Expires: 10-4-09

N:\City\Housing\Relief Nursery\Release.wpd

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

LANE COUNTY ZONING AND LAND )  
USE ORDINANCE NO. 277 )

Rezoning certain land in  
Section 5, Township 18 South,  
Range 2 West, W.M. from RA  
SUBURBAN DISTRICT to C-2  
NEIGHBORHOOD COMMERCIAL DISTRICT

The Board of County Commissioners of Lane County ordains as follows:

The following described land, to-wit:

Beginning 27.58 chains South of Northeast corner of Claim No. 50, Township 18 South, Range 2 West, W.M., run thence South 12.0 chains to center of County Road, thence West 8.33 chains, thence North 12.0 chains, thence East 8.33 chains to the point of beginning; EXCEPTING therefrom the North 234.39 feet.

is hereby rezoned from RA SUBURBAN DISTRICT to C-2 NEIGHBORHOOD COMMERCIAL DISTRICT and is subject to the regulations provided therefor in Lane County Zoning and Land Use Regulation Ordinance No. 4, as amended, known as the "Zoning Plan of the County of Lane, State of Oregon," pursuant to O.R.S. Chapter 215.

Enacted this 28th day of February, 1968.

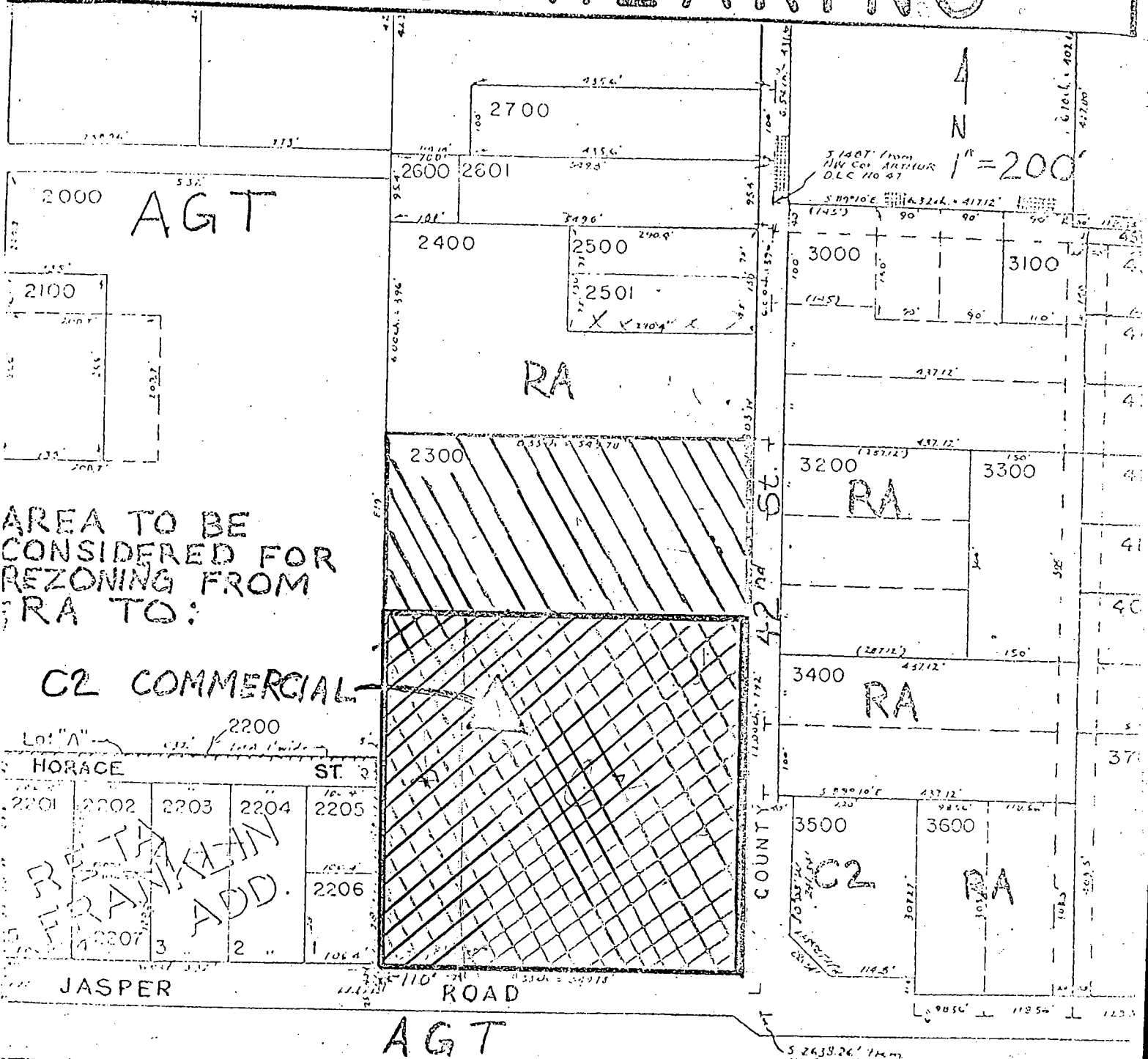
/s/ Jess Hill  
Chairman of the Board of County  
Commissioners of Lane County

/s/ Ruby Winther  
Recording Secretary of the Board  
at the meeting at which this ordinance  
was enacted

Approved and recommended for enactment by the affirmative vote of the Lane County Planning Commission this 13th day of February, 1968, after giving due notice of Public Hearing and holding a Public Hearing on the 13th day of February, 1968.

Effective: March 28, 1968  
/s/ Herman W. Petersen  
Chairman

PUBLIC HEARING



8 P.M.

DATE \_\_\_\_\_

JANUARY 9, 1968

PLACE

HARRIS HALL

LANE COUNTY COURTHOUSE

SHOPPING CENTER, INC. (DONALD E. COOPER)

NORTH OF JASPER ROAD AND WEST OF 42ND STREET - TAX LOT 2300 - MAP 18-2-5-2.

REQUESTS CHANGE OF ZONE FROM RA TO C-2 TO CONSTRUCT SHOPPING CENTER.

LANE COUNTY

PAT GORDON, SECRETARY



#6

15978

## A G R E E M E N T

THIS AGREEMENT made and entered into by and between LANE COUNTY, a political subdivision of the State of Oregon, hereinafter called the "County" and DONALD E. COOPER, hereinafter known as "Owner".

## WITNESSETH

## RECITALS:

Whereas, the County has been requested by the Owner to rezone certain real property more particularly described as follows, to-wit:

Beginning 27.58 chains South of Northeast corner of Claim No. 50, Township 18 South, Range 2 West, W.M., run thence South 12.0 chains to center of County Road, thence West 8.33 chains, thence North 12.0 chains, thence East 8.33 chains to the point of beginning; EXCEPTING therefrom the North 234.39 feet.

from RA SUBURBAN DISTRICT to C-2 COMMERCIAL DISTRICT; and

Whereas, the Owner proposes to construct a shopping center on the above described real property; and

Whereas, the County is willing to make a change of the zone of the above described real property from RA SUBURBAN DISTRICT to C-2 COMMERCIAL DISTRICT and has approved said zoning on certain conditions and limitations placed on the zoning approval and the Parties desire by this instrument to evidence this agreement made pursuant to the granting of said zoning change.

## AGREEMENT:

NOW THEREFORE, in consideration of the foregoing recitals which are expressly made a part hereof, the Parties hereto covenant and agree as follows:

1. Owner, in improving the property described heretofore, agrees to follow a general plan of development and to provide permanent screening along the westerly and northerly boundary which may be vegetative or solid fencing as shown in Exhibit "A" attached hereto and made a part hereof.

15978

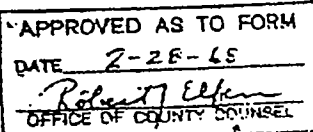
Owner, in improving the property described heretofore, agrees that the first Building permit be for the major tenant, namely a grocery store.

3. Owner and County further Covenant and agree each with the other that this Agreement shall be binding upon the heirs, successors, executors, administrators and assigns of the Parties hereto, and shall be a covenant running with the land and binding upon the above described real property and any and all owners hereafter.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on this 28th day of February, 1968.

BOARD OF COUNTY COMMISSIONERS OF  
LANE COUNTY, OREGON

James A. Rice Commissioner  
Barthelme Nelson Commissioner  
Harold Elliott Commissioner



OWNER  
by:

Donald E. Cooper  
Donald E. Cooper

STATE OF OREGON )  
County of Lane )

Personally appeared

Jess Hill

Barthelme Nelson

and

Frank A. Elliott, Board of Commissioners of Lane County, Oregon and  
Donald E. Cooper

have acknowledged the foregoing instrument to be their voluntary act and deed.

NOTARIAL PUBLIC 28th day of February, 1968.

Julia Skintner  
Notary Public for Oregon  
My commission expires: 5-25-70

Donald E. Cooper - Page 2 - Agreement

**CITY OF SPRINGFIELD, OREGON**

CITY ATTORNEY'S OFFICE

SPRINGFIELD



SUITE D, 223 A STREET  
SPRINGFIELD, OR 97477  
(541) 746-9621  
FAX (541) 746-4109  
[www.ci.springfield.or.us](http://www.ci.springfield.or.us)

May 22, 2007

MAY 22 2007

Steve Vorhes  
Lane County Office of Legal Counsel  
125 East Eighth Avenue  
Eugene, OR 97401

RE: Attached Agreement

Dear Steve:

The City of Springfield is working with the Lane County Relief Nursery for construction of a Lane County Relief Nursery facility in Springfield. As part of that work effort we have sold the Relief Nursery property which, according to Rohn Roberts, is apparently encumbered by this Agreement. I am enclosing copies for you of the Council Action Packet and Agreement with the Relief Nursery.

Rohn Roberts, representing the Relief Nursery, has requested that this "encumbrance" be eliminated. Would the County be willing to sign a release of this restriction if I prepared it and sent it over?

Thank you very much.

Sincerely,

LEAHY & KIERAN

Joseph J. Leahy  
JJL:llk  
Enclosure

N:\City\Housing\Relief Nursery\Ltr to Vorhes.wpd

*"Committed To Excellence"*



223 A Street, Suite D  
Springfield, Oregon 97477-4500

(541) 746-9621  
FAX (541) 746-4109

Attachment 5

Joseph J. Leahy  
Matthew J. Cox  
Bonnie R. Williams  
Mary Bridget Smith

July 24, 2007

Steve Vorhes  
Lane County Office of Legal Counsel  
125 East Eighth Avenue  
Eugene OR 97401

**RECEIVED**

**JUL 25 2007**

LANE COUNTY  
OFFICE OF LEGAL COUNSEL

RE: Attached Original of Joint Release

Dear Steve:

In conformance with your request is the original of a Joint Release executed by Bill Grile, Development Services Director of the City of Springfield and by Gino Grimaldi, City Manager, and notarized.

The Release recites that the jurisdictional responsibility for the property subject to the original condition was transferred from Lane County to the City of Springfield and was zoned Community Commercial in accordance with the Springfield Development Code Section 18.010(2).

The Release also specifies that any application for development of a specific use on the real property would need to be in accordance with the City of Springfield Development Code.

I hope this meets your needs. Please secure the approval of Lane County, have it executed by Bill Van Vactor in the presence of a notary and return it to me for filing. It would be a great help to the City and to the Relief Nursery which is purchasing the property.

Thank you for your attention to this matter.

Sincerely,  
LEAHY & COX, LLP

A handwritten signature in dark ink, appearing to read "Joe".

Joseph J. Leahy  
JJL:msm

cc: Rohn Roberts; Kevin Ko  
Enclosure: Joint Release

N:\Mary Sharon\reliefnurseryvorhes072407.wpd