

**CHARTER TOWNSHIP OF FENTON PLANNING COMMISSION  
MINUTES FOR REGULAR MEETING OF JANUARY 8, 2008**

**TOWNSHIP CIVIC COMMUNITY CENTER  
12060 MANTAWAUKA DRIVE, FENTON, MICHIGAN**

Chairman Tucker called meeting to order at 7:05 p.m.

Present: Carlson, Franz, Richard, Root, Tucker

Recording Secretary McDonald

Absent: Ochodnicki, Spees

**APPROVAL OF AGENDA:**

Motion to approve the agenda as presented

Motion by: Tucker

Seconded by: Carlson

Ayes: Carlson, Franz, Richard, Root, Tucker

Nays: None

Absent: Ochodnicki, Spees

Motion carried

**UNFINISHED BUSINESS:**

**SP07-007 Clifford Scarberry, 9204 Valley View:**

06-23-100-008

14219 Torrey Rd.

Final site plan: office/retail

Secretary Carlson reviewed file. Brian Romska, Field to Finish, 401 S. Leroy sworn in. Romska explained revisions have been made to address the concerns of the Commission and to address issues raised by the Township's Engineers. Elevations have been provided as required. Chairman Tucker called for audience comments. There were none. Franz stated concerns about the relocation of utilities that service the existing building. He noted this was a concern brought up at the last meeting, the revised plan does not address this issue. Romska said Consumers did not review plans until approved by the Township. Franz added the plan has conflicting information with regard to the number of overhead doors, he said one sheet calls for 6 doors and another 4. Romska said 4 doors are proposed. Franz expressed concerns about the height of the doors. He noted the applicant has stated the use of unit "A" will be detailing. This type of door would only be necessary for large vehicle repair. Romska replied that a vehicle repair facility the intended use of the area. The larger doors are proposed at the request of the applicant to address potential future needs. Franz said the expansion of the detail facility into a repair facility is one of his concerns. He noted automobile repair is not a permitted use in this zoning district. Franz added the front elevations do not address the street as required. He said the elevations submitted will not meet the requirements of the Ordinance. He suggested this be addressed and the existing building be modified to create a uniform look. Romska said they had little time with the architect prior to the meeting and would be willing to meet with him again to try to address this concern. Franz asked if the steps on the rear of the building had been eliminated. Romska explained there will be a retaining wall built along the south property line to address run off and eliminate the need for the steps. Carlson said she wants to see something in writing from Consumers about the relocation of the existing utilities before final site plan approval. Tucker concurred stating he is not comfortable approving the plan without knowing where the utilities are going to be located. Part of this review is insure the utilities like the air conditioning units are screened from public view. He noted the Commission will want a subsequent look at a plan showing the location of all of the utilities and how they will be screened. Franz added he is not in favor of 12-ft. over head doors. Tucker said the applicant must do something to improve the aesthetics of the overhead doors because they will be visible from Torrey Rd. and they are located on the front of the building. He asked about the landscaping shown on sheet 2. Romska explained this additional landscaping is to screen the

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air conditioning units for the proposed building. In response to a question by Root, Romska said the refuse station will be used by both buildings. It will be screened as required and placed on concrete pad. Root asked about lighting. Romska said all lighting will be wall mounted, the hours of operation will be daylight hours and there will be no need for parking lot illumination. Root suggested the Commission require a sidewalk along Torrey Rd. consistent this practice in other areas of the Township. Tucker said there are many issues with the plan that need to be addressed prior to final approval. He noted the following: Township engineers approval, 4 – 5-ft. wide sidewalk along Torrey Rd., overhead doors must be visually enhanced and can not exceed 10-ft. in height, the applicant must produce a plan for the relocation of the existing utilities and something in writing from Consumers to confirm the feasibility of the proposed plan, façade facing Torrey Rd. must be enhanced and the existing building addressed to create a uniform appearance for the complex, landscape sizing must be noted on the plan, façade colors need to be called out on the plan and comply with Article 11 Section 11.02 A 7. Root asked that the building be moved away from the south property line to provide space for the equipment and maintenance of that side of the building. Romska said the building would have to be downsized in order to provide the required parking and maneuvering. Romska said his client is not in favor of downsizing the building. Tucker noted that it appears the applicant is trying to maximize coverage of this parcel and this is presenting a number of problems with regard to compliance with the Ordinance. Franz noted all sheets of the site plan that are affected by changes should be revised. He said only the site plan sheet has been updated some of the changes require grading plan revisions. The Commission suggested this matter be postponed until all of these issues are addressed. The applicant agreed and requested the matter be postponed.

**POSTPONED**

**NEW BUSINESS:**

**R08-001 Capitol Realty Holdings LLC, 140 E. Second St. Flint:**

06-31-400-034

Northwest corner of Owen and Linden Roads

Recommendation to Rezone from R-3 to PUD

Secretary Carlson reviewed file. John Pavone sworn in representing Capitol Realty Holdings. Pavone distributed his presentation in booklet form to the Commission. He read letter of intent to rezone dated 12-14-07, stating the applicant's intent to rezone 82.6 acres of land from R-3 to PUD. He explained the concept is for a mixture of uses with the primary purpose to provide assisted living and nursing home care to individuals of retirement age as well as encourage recreation activity within the community. He added the plan also includes a small commercial/office component that will compliment the other uses by providing medical office space and convenience commercial. He said the developers feel the proposed combination of uses are appropriate given; the unique location of the property at a high traffic intersection, the parcels large size, access to 2 paved public roads and meeting the spirit of the future land use plan. Pavone then explained that the land use plan shows the property in the low density classification. However, because sewer has been extended to this area it is available for medium density and was rezoned to R-3 (medium density residential) in 2005. Pavone stated at this time there is no market for the single family homes and the developers designed this plan to address the needs of the community and provide a feasible development alternative. Pavone explained the surrounding zoning with residential to the north and east an orchard and single family residential bordering the south and agriculture to the west. The proposed plan was developed to compliment the existing land uses and further the goals of the Township in creating interconnected useable open spaces. Pavone explained that in considering a petition for a zoning amendment the Planning Commission and Township Board are charged to make their findings based on the following criteria:

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*1. Consistency with the goals, policies, and Future Land Use Map contained within the Fenton Township Master Plan, including any subarea or corridor studies. If conditions have changed since the Fenton Township Master Plan was adopted, the consistency with recent development trends in the area.*

With sanitary sewer located on both Linden and Lobdell roads, the subject property met the location requirements of the master plan in 2005 to qualify for rezoning to the R-3 medium density single family classification. The applicant subsequently gained approval of a 109 home single family residential development (Fox Run Estates) on the subject site, but feels that development of the proposed mixed-use commercial/office, recreation, and retirement village is more appropriate given current market conditions. The uses proposed in the applicant's concept plan are all permitted uses within the medium density classification. Therefore it is the applicant's contention that this request is consistent with the intent of the Fenton Township Master Plan and the development trends in the area. No corridor or subarea studies have been conducted that pertain to or include the subject property.

*2. Compatibility of the site's physical, geological, hydrological and other environmental features with the host of uses permitted in the proposed zoning district.*

The parcel's environmental and geological features are similar to those of the adjacent parcels, upon which residential developments have been planned and/or constructed. Furthermore, the site's physical features are compatible with all of the permitted uses in the R-3 district and the uses proposed. The property has 1012.27 ft. of frontage on Linden Road and a depth of 2671.82 ft. The property also has a point of entry on Lobdell Road with 326.63 ft. of frontage. The size and shape of the subject site will accommodate the uses proposed on the conceptual plan provided. There is a medium-sized isolated wetland on the site. The applicant engaged Accurate Ecological Consulting to conduct a wetland delineation of the site, the report is submitted for review. The wetland consultant delineated the boundary of the wetland and estimated it's size to be 8.5 acres. The wetland flags were later surveyed by the applicant's engineering company and incorporated into the scaled survey provided. The actual size of the wetland is 6.29 acres, 3.90 acres of which falls on the subject site. The wetland, due to it's size, is regulated and the developer will be pursuing a permit to mitigate a portion of the wetland to provide for an extension of Owen Road into the property. Other than a large stand of trees (that the developer plans to preserve as a natural buffer between uses), there are no other quality woodlands, wetlands, or other significant natural features on this parcel that would preclude development in accordance with the proposed concept plan. The site has a hilly topography that reaches it's highest level at roughly the east/west mid-point of the property. Based on the topographical map and the applicant's engineering firm's analysis, the site drains in 2 directions. The eastern half of the site drains to the east and the western half drains to the west. The applicant developed a storm water management system during the approval process for Fox Run Estates. The Genesee County Road Commission and Genesee County Drain Commission have provided approval letters for that system. The applicant engaged Applied Ecosystems to conduct a phase I environmental site assessment of the property it was determined that with the exception of three localized debris piles, no evidence of UST's, AST's, chemical spills, hazardous waste disposal, or other environmental concerns were observed on the property. A copy of the phase I environmental assessment was provided to the Township Planning Department during the approval process for Fox Run Estates and is available for review. Copies can also be obtained in electronic format upon request. Risk of ground water contamination at the site is low to moderate. Due to the fact that the assisted living center, skilled nursing home, and commercial/office uses will concentrate multiple water demanding devices (sinks, restrooms, bathtubs, etc..) within a concentrated area, a community well or shared well system will need to be designed that meets all local, state, and county requirements for water quality and maintenance.

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*3. Evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) of the uses permitted under the current zoning.*

Noting the changes in land use that have taken place in close proximity to the site, a rezoning to PUD for the purpose of developing the property as the mixture of uses found on the concept plan is not only reasonable, but, in the applicant's opinion, required, for the owner of the property to receive a reasonable return on their investment. He stated it would not be prudent for the applicant to construct single family homes on the property given the depressed market for single family homes. Furthermore, the applicant believes, it is not economically feasible to continue farming due to the size of the parcel. Farming operations also can create; odors, dust, noise, and chemical pollution that can be deemed undesirable, and in some cases harmful, to adjacent residential communities.

*4. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.*

The project is located at a termination point for one of the Townships most heavily traveled roads (Owen). Pavone stated the property has natural buffers that will shield the more intense uses from neighboring property owners. He added development of the site is compatible with the adjacent PUD development to the North, as they both will have contiguous open space and recreational uses. It is the applicant's position that the proposed uses are acceptable, compatible with the adjacent uses, and consistent with the master plan, the proposed plan also provides much needed convenience commercial to an area that is underserved commercially. He stated the rezoning should have no negative effect on property values as it is consistent and compatible with the neighboring uses.

*5. The capacity of Township and/or County utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the Township.*

Sufficiently sized sanitary sewers are located on both Linden Road and Lobdell Road. The Township's Engineer determined that ample capacity exists to accommodate development on the site. Natural gas and electric service are also at the property line.

*6. The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.*

The parcel has substantial frontage on both Linden and Lobdell Roads. There is enough frontage on Lobdell Road to provide a boulevard entrance into the site. There is ample frontage on Linden Road, to provide numerous points of ingress and egress. These 2 entrance points located on 2 separate roads will provide the best possible distribution for vehicular traffic during peak hours of travel and better emergency vehicle access. During site planning and approval process, the Genesee County Road Commission will have a chance to review the proposed site plan for the property. At that time, modifications to the placement of a proposed entrance and/or the elimination of such, may or may not be required. Ultimately, whatever is deemed most appropriate, in order to insure the minimum amount of disruption to the intersection of Owen and Linden Roads, will prevail. There is also unused right-of-way available on both sides of Linden Road to provide for passing lanes, and/or acceleration or deceleration lanes (if necessary). Pavone stated that the applicant would be willing to pay for a traffic signal at the intersection if it is determined that a signal is required or beneficial. He added both Linden and Lobdell Roads can safely and effectively handle the additional traffic generated by this project. Linden Road is defined as a County Primary Road and Lobdell Road is defined as a County Local Road. Both Linden and Lobdell Roads are currently 2 lanes and neither are, at or near, capacity. The only roads in Fenton Township that are expected to reach capacity by the year 2020 are US-23, Thompson Road, and Fenton Road. The applicant is not aware of any future or planned improvements to either Linden or Lobdell Roads. The site falls within the Genesee

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County Road Commission's Urban Boundary. The Genesee Road Commission is responsible to review crash incident data and traffic counts, in order to determine what road improvements and signalization requirements, may or may not be necessary, in order to insure satisfactory levels of service are maintained on all intersections and roadways that fall under it's jurisdiction.

*7. The apparent demand for the types of uses permitted in the requested zoning district in the Township in relation to the amount of land in the Township currently zoned and available to accommodate the demand.*

The quality of the residential housing in the township, a highly acclaimed school district, and convenient access to retail shopping and the interstate, has fueled tremendous residential growth in the Township. Most of the growth has occurred, or is planned to occur, within the vicinity of the site. Pavone stated the proposed development will complement the adjacent developments and provide additional housing alternatives for those of retirement age, and shopping/recreation alternatives for all the Township's residents.

*8. The boundaries of the requested rezoning district are reasonable in relationship to their surroundings and construction on the site will be able to meet the dimensional regulations for the zoning district listed in the Schedule of Regulations.*

The site is rectangular in shape, with a 4 acre parcel of land extending south to Lobdell Road. Pavone said the dimensions and the width of the site are sufficient to permit construction in accordance with the proposed concept plan, without the need for any dimensional variances.

*9. If a rezoning is appropriate, the requested zoning district considered to be more appropriate from the township's perspective than another zoning district.*

Pavone stated PUD zoning is compatible with the Fenton Township Land Use Plan, development trends in the area, and the surrounding uses and zoning. Therefore this request is consistent with the goals and objectives of the Future Land Use Plan.

*10. If the request is for a specific use, is rezoning the land more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use?*

Pavone said amending the list of permitted uses is not necessary, due to the fact the uses proposed on the concept plan are all allowable within the current zoning district. Rezoning the property to PUD provides a means for the Township to approve a mixture of uses while defining certain conditions that run with the land as part of the approval.

*11. The requested rezoning will not create an isolated and unplanned spot zone.*

The uses proposed are all permitted uses within the medium density classification when the following site criteria are met; access to sanitary sewer, access to a paved county primary road, at or near an intersection, of adequate size to provide buffering for all adjacent residential uses, and close to a concentration of residences intended to be served by the use. Thus, the request will not create an isolated and unplanned spot-zone.

*12. The request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has been provided.*

This is the first time that this request has been submitted.

*13. Other factors deemed appropriate by the Planning Commission and Township Board.*

The petitioner will address additional concerns and criteria deemed important by the Planning Commission and the Board. Pavone summarized his presentation by stating the request is consistent with the Fenton Township Land Use Plan, development trends in the area, and is compatible with the surrounding zoning and uses.

Chairman Tucker called for audience comments. The following people spoke in opposition; James Arceo, 5490 Deer Tr., Gerald Kimball, 16248 Orchard Tr., Bill & Amanda Chavez, 15178 Orchard Tr., (whom also submitted a letter dated 1-7-08), Marie McClimans, 5443 Dooley, Richard Strauss, 5330 Blossom Ln., Kevin Begola, 16225 Orchard Tr., Boris Kokotovic, 16177 Lydia Ct., Sue Foland (President FTRA) 11421 Fairbanks, Ava Miller, 5491 Dooley, Dean Smith, 16208 Orchard Tr., Rodney Porter, 16218 Orchard Tr., Kirk Hildreth, 16161 Lydia Ct., Trudy Starrs, 16144 Linden, Susan Kimball, 16248 Orchard Tr., John Ashley, 16379 Trotter Ln.

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and Dave Arceo, 5352 Maple Ave. Their concerns were as follows; the ground water supply and quality would be adversely affected by development under the proposed rezoning, the high volume of commuter traffic these uses will generate, added traffic and the increase in the amount of cars using Orchard Tr. as a cut-through from Owen to Linden will all create increased danger to the safety and well-being of the residents, noise and light pollution from the proposed development, bio-hazardous materials from the proposed medical uses being introduced into the sanitary sewer and the possibility of these materials getting into the ground water and lakes, pollution from the site, negative affect on the quality of Byram Lake, emergency vehicles coming and going from the site creating undesirable noise and disrupting the flow of traffic in the area, churches being exempt from taxation causing a decrease in the Township's tax base, no need for commercial/office or retail in this area due to its proximity to the commercial development on Silver lake Parkway to the east, loss of rural character and decrease in property values, this constituting a spot zone of commercial in area that is all residential and agricultural, questions and concerns about the maintenance and control of the proposed outdoor recreation complex, the request is not consistent with the future land use plan, objections to the proposed mitigation of the wetlands, with other assisted living facilities that are either approved or under construction there is no need for this type of facility in the Township and the existing county park and soccer fields very nearby already provide for the other recreational uses proposed and setting an unwanted precedence for allowing commercial zoning to expand into this rural area. Arceo submitted a report from the Genesee County Metropolitan Planning Commission entitled "The Congestion Management Process". In this report the corner of Owen and Linden is listed as one of the congested corners in the County. He gave examples of traffic counts to show that this area has and continues to become more congested. He challenged the Commission to protect the health safety and welfare of it's residents, stating their biggest investment is their home and their biggest concerns are their families and their quality of life. Others said though the plan looked nice they objected to the commercial component. Many of residents of Orchard View opposed being directly across the street from the proposed commercial development with Owen Rd. as the only separation between their back yard and the office/retail. Mueller objected to the location of the day care stating it violated restriction agreed upon when the developers bought the property from him. However he supported the proposal and stated it is consistent with the future land use plan and compatible with surrounding uses. He said he preferred this concept to the single family homes that had been previously approved for this site. McClimans stated the Township lacks sidewalks in many of the developments and encourage that, if approved, this project should be required to have sidewalks within the development and along the Linden Rd. frontage. Amanda Chavez asked for some examples of other developments Capitol Realty had developed. Pavone said they have developed many projects including Fox Chase Farms, Hills of Tyrone West, Riverwood Apartments in Clinton and they are involved with the Upton Development Group that are doing many things in the City of Flint. Pavone explained storm water from this site does not flow to the north at all so there is no danger to Byram Lk. Franz stated there are many things that can be done to address the concerns of the residents, including lighting and buffering which can be addressed by the Planning Commission during review and approval of a site plan. He pointed out the wetland mitigation is under the jurisdiction of the MDEQ and the intersection control and traffic issues are governed by the Genesee County Road Commission. Pavone explained they have 3 options for maintenance of the athletic fields, the church may maintain and operate them, donation of the fields to Fenton Little League or the developers may build and maintain these amenities themselves. He added this has not been determined at this time. Richard stated concerns about the demand for this type of service, he asked if any studies have been done to substantiate the need. The applicant stated no feasibility study had been completed. Richard noted there is a major commercial corridor located approximately 2 miles away from this site which provides many of the commercial services proposed by the applicant. He added many of the proposed uses are also

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available in the nearby City of Linden which is opening a new assisted living facility and there are 2 proposed assisted living facilities on the north side of the Township. Richard said there is a large existing soccer facility across the street from this parcel and ball fields and tennis courts at all of the school facilities in the Township. Pavone said 2 national chains have expressed interest in this location, the key to their locating here is a signalized intersection. The developers want to work in conjunction with the County Road Commission and the MDEQ to extend Owen Road onto this property and install a light at the intersection of Owen and Linden Roads. Several doctors have approached the developers and expressed an interest in locating an office in this location. They have been meeting with a nursing home operator who has applied to the State for additional beds. Pavone said there is a certifiable need for more nursing home beds and this operator has applied for 173 beds. Pavone noted they have also been in contact with a church that is part of a large network of churches with a congregation of over 10,000. This concept is based on the churches desires for space and recreation. Tucker asked, if approved, what the developer thought would be an estimated time-line for construction. Pavone said the licensed beds should be approved in April and the skilled nursing facility would follow, the intersection could be approved and support the retail in the next year and the church and recreation in the next 2 years. Richard questioned the church owning and operating the recreation facility and how it would be made available for public use. Pavone said the church is non-denominational, but he did not know how they would run the facility at this time. Ed Joubran, one of the partners of the development group, said they are looking to the future, the market for single family homes will probably be poor for some time, this project is a viable use of the property that meets the needs of the Township while offering a return for their investment. Root stated the proposal does not seem to meet the criteria for a PUD. He noted the zoning district is intended to accommodate developments with mixed or varied uses, on sites with unusual topography or unique settings within the community, or on land which exhibits difficulty or costly development problems or sites that contain natural features such as wetlands, farmland or woodlots. He added he did not feel this type of commercial/retail/office meets the Townships criteria for neighborhood commercial, therefore it is not consistent with the future land use plan. Pavone said it is a mixed use project and there are some difficulties with the Owen/Linden intersection improvements, drainage improvements required along Owen and Lobdell Roads all the way to Hogan, a regulated wetland and natural features which are being preserved and used as buffers between the uses. Carlson stated concerns about the commercial and wanted some documentation to demonstrate a need for additional commercial in this area. She said these services are available near by and this area is primarily residential and rural in character. Tucker said he felt this does fit the purpose of the PUD zoning district. However, his concerns are based more on compliance with the future land use plan in general and specifically, whether the proposal satisfies all of the locational criteria for permitting office and commercial uses in areas master planned for medium density residential uses . He said he understands the plan includes neighborhood commercial but he is concerned that the proposed sizes and number of non-residential uses exceeds the spirit and intent of the land use plan when allowing limited commercial or offices uses in the medium density residential classification. He explained the Township must base their decision on compliance or non-compliance with the master plan, not on what may or may not be popular. The land use plan does allow for consideration of small clusters of office or local commercial uses in the medium density residential classification. The question in this case is whether this proposal is for local or regional uses. Tucker suggested the Zoning Administrator submit an analysis of this request. The Commission concurred.

**POSTPONED**

**ORDINANCE AMENDMENTS:**

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Article 8 (Site Plan Review) Section 8.11 Time Limits Sub Section C. Extensions

The Commission had discussed this proposed change at the last meeting and decided they needed to amend the Zoning Ordinance to allow for further extensions of preliminary and approved site plans to address the economic conditions. The noted when conditions change or there are changes to the Zoning Ordinance that make approved plans obsolete, then this section may need to be amended again to reinstate the limits on the number of permitted extensions. Chairman Tucker called for audience comments. There were none.

Motion to recommend the Township Board amend Article 8, Section 8.11 C as follows:

The Planning Commission may grant ~~two (2)~~ **additional** extensions for an additional one year per extension for preliminary and final site plan approval and ~~two (2)~~ **additional** extensions for up to an additional two (2) years per extension for completion of an approved site plan if the applicant submits a request for an extension prior to expiration of the approval and can demonstrate that suitable, continual progress has been made on the project.

Motion by: Root

Seconded by: Franz

Ayes: Carlson, Franz, Richard, Root, Tucker

Nays: None

Absent: Ochodnicki, Spees

Motion carried

**DISCUSSION ITEMS:** Michigan Economic Developers Association  
The Commission wanted to discuss this further at the next meeting

**CORRESPONDENCE:** Request for an extension of the preliminary site plan approval for Northridge Condominiums.

Motion to grant a 2 year extension of the preliminary site plan approval for Northridge Condominiums.

Motion by: Carlson

Seconded by: Root

Ayes: Carlson, Franz, Richard, Root, Tucker

Nays: None

Absent: Ochodnicki, Spees

Motion carried

**REMINDER:** Thompson Road Corridor Visual Preference Workshop – January 28<sup>th</sup> at 7:00 p.m.

**MINUTES:** December 11, 2007 stand approved as submitted

**ADJOURN: 10:29 p.m.**

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John Tucker, Chairman

Minutes Posted 01/16/08

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Sandra Carlson, Secretary