

**MINUTES  
PLANNING AND ZONING COMMISSION  
FEBRUARY 28, 2001**

A regular meeting of the Village of Powell Planning and Zoning Commission was held on February 28, 2001, and called to order at 7:34 p.m. by Chairman Don Emerick. Other Planning and Zoning Commissioners present were Dave Lackey, Dan Wiencek, Elmer Meider, and Art Schultz. Rob Cohen and Karen Woods were absent. Also present were David Betz, Director of Development; Dawn Nauman, Planning and Zoning Clerk; residents and representatives of the press.

**APPROVAL OF MINUTES**

The minutes of January 10, 2001 were amended and approved.

**HEARING OF VISITORS FOR ITEMS NOT ON THE AGENDA**

There was none.

**Sketch Plan**

**Applicant:** Learning Unlimited Schools D.B.A. Village Academy School  
**Location:** 284 S. Liberty Street  
**Zoning:** OPPCR, Old Powell Planned Commercial And Residence District  
HD, Historic District Overlay  
**Request:** Reconsideration and Vote On Acceptance Of Sketch Plan in preparation of filing a Combined Preliminary And Final Development Plan.

Rich Pontius, Architect, asked for reconsideration of the Village Academy Fine Arts building complex. He reviewed the revised site plan and letter outlining changes since the last meeting (Exhibit 1).

David Betz, Director of Development, reviewed the section of the Zoning Code relating to a change of use from a single-family home to another (Exhibit 2). He said that educational properties are permitted. He said that the Commission needs to determine whether the side yard setback should reflect that section of the code (10 feet), or it should fall under the guidelines of OPPCR, which requires that new commercial structures have a minimum side yard setback of 50 feet. He gave his Staff Report on this issue (Exhibit 3).

Commissioner Emerick opened the hearing to public comment.

Diane Masterson, said she lives in Powell and that her daughter attends the academy. She said this is a good opportunity for the school, which is lacking space. She said these two buildings will enhance education and the overall environment of the Village Academy. She said she thinks the enrollment will stay the same. She said the architecture is positive.

Larry Coolidge, 78 W. Olentangy Street, said he owns the property to the north of this proposal. He said he has no disagreement with the school, and that his friends' children attend, and he's never heard a complaint about it. However, children are taught that there are rules and regulations, and when items don't fit, they can't be done, and this is an example. He said they are nice looking buildings, but they don't fit on a 65-foot lot. He said there is already traffic congestion on Liberty Road when school begins each morning. He said the fire department has concerns about the congestion, and adding 13,000 square feet will only make it worse. He said that the view from his property is of a building that is still too massive. He said he is a member of the Historic District Commission (HDC), but he abstained from votes on this issue. He said the HDC felt the building was too massive. Yet, every time, the applicant came back with a 13,000-sq. ft. addition. He said the Village Academy currently has 7 schools, and some of them have sold over the years. He asked what this could be used for if it sold. He said he feels the school needs more land. He said he feels his property has value. He said the school asked him to give them his property so they would have more land, and they approached another adjacent landowner that doesn't want to sell his adjacent property.

Mr. Pontius said the HDC suggested pushing the building back. He said it is not as massive as the dentist office across the street. Mr. Coolidge said the rest of the HDC's suggestion was to reduce the size of the building.

There being no further comment, the public hearing was closed.

Commissioner Lackey said that the problem is what people see, and that this building is just too big. He said pushing it back was a good move, but he asked at the last meeting that it also be reduced by 20%. He asked how feasible is it to put more of the buildings below ground, perhaps with a tunnel between. Mr. Pontius said it is not infeasible, but that in schools across America, "kids aren't generally taught in basements." He said the drama classroom and dance studio are planned under ground. Mr. Betz noted that part of the existing school is underground. Mr. Pontius said the basement of the building closest to the street will be used for storage and mechanicals.

Commissioner Wiencek asked, if this building is not approved, and the applicant applies for approval to add to the existing building, would it go back to the HDC and the Planning and Zoning Commission. Mr. Betz said it would. Commissioner Wiencek said there will be likely the same opposition for such a plan because they will be increasing the size of an already massive building. Commissioner Wiencek asked about the HDC's role. Mr. Betz said the architectural details will need approval by the HDC, and while the HDC can give recommendations about the site plan, but the site plan is the Planning and Zoning Commission's authority.

Commissioner Wiencek asked if additional land is available adjacent to the school. Mr. Betz said there are properties to the north that are not fully developed. Commissioner Wiencek asked if multiple buildings are anticipated on those parcels. Mr. Betz said that they are, as the zoning of OPPCR is a mixed use meant to serve as transition between commercial uses to the west of Liberty Street to single family subdivisions to the east. He said he expects offices and residential development. Commissioner Wiencek asked if the parking is adequate for the school. Mr. Betz said the number of classrooms with the additional facility needs to be determined. Mr. Pontius said the parking requirements will not change.

Mr. Betz asked if there will be more after school events. Jeff Barber, Village Academy, said it will not increase practices, just allow room for events that are currently being held in spaces designed for other uses. Mr. Betz noted that currently, special events cause great problems with parking at the academy. Mr. Barber said their larger events are now being held at Grace Brethren Church, which has more adequate parking and a better facility for large events.

Commissioner Wiencek asked if some of the programming anticipated for the new building is currently being held in classrooms. Mr. Barber said that a few are. Mr. Pontius encouraged the Commission to visit the school and see that they are utilizing spaces meant for other uses.

Commissioner Wiencek asked if it is correct that the current enrollment is 440, with the maximum of 500. Susan Lasley, Village Academy, said it is. Commissioner Wiencek said that any business has the desire to maximize their space, and he has two concerns. One is the size of the building, and the other is the intensity of use. He said it is safe to say that if the Academy came to the Commission with undeveloped land and asked for a development of this size, it would not be approved. He said he feels it would be tempting to increase enrollment.

Ms. Lasley said that it isn't that 440 students don't fit, but that their programming doesn't fit. She said that they can't increase enrollment and still allow the individualized study they provide. She said that 500 students is the optimum and maximum enrollment, and the current enrollment will expand to that through natural attrition. Commissioner Wiencek asked if the school hasn't already reached its limit, which drove them to establishing an elementary facility at a separate location. Ms. Lasley said that they moved the preschoolers and kindergarten to keep the Village Academy at 500 students maximum.

Commissioner Wiencek asked Emil Slavik, architectural advisor, if he has any comment on the size of the building in relationship to future development. Mr. Slavik spoke favorably of the architecture, and said he believes the area zoning allows for denser use. He said that the question here is one of density, which is in the Commission's authority. He said the proximity to other buildings is appropriate.

Commissioner Meider said he feels this is a significant improvement. He said he would rather see this done in this way than by expanding the existing building, because this development is more consistent with the village "look and feel" architecturally. He said he thinks the setback is comfortable. He said if the school were adding students he would be concerned about parking, but they are not.

Commissioner Schultz said he is convinced that this is a great school and it is an asset to the Village. He said the architecture is good, and it is better moved back, but it may still be too large. He said the applicant might consider increasing the use of underground space. He said he has been in the existing building, where classrooms are below grade in several spots. He said he thinks below grade classrooms happen frequently, and that some inner rooms don't have light in many schools. Commissioner Schultz said that there have been many discussions since his time on the Commission about the growth of this school. Each time, the applicant has said this is the last expansion because they have exceeded their space. He said that has happened at least twice, and now the Commission is being asked to forget what the school said before. He said that parking is an issue, and the school needs more, possible further north with a separate access. He said with such consideration to parking, congestion, and overflow, he might be able to vote for this development.

Commissioner Emerick asked for the Commission's role this evening. Mr. Betz said while they don't vote in favor of the plan, they can vote to allow submittal for a combined preliminary and final development plan.

Commissioner Lackey said he is still concerned about the size of the building. He said that the applicant received a variance for their parking at their current level, and now they want to expand their facility. He said that he is concerned that if the school were to leave this site, the Village would be left with an intense use with insufficient parking. He said that the style of the architecture is appropriate, but the scale is not. He said that if they had more property, it might work.

Commissioner Wiencek asked if there is any interest in lowering the enrollment cap so that the Commission can be sure there will be no more students. Ms. Lasley said they would be willing to offer a guarantee that 500 is the maximum. Commissioner Wiencek asked if the enrollment limit is determined on classrooms. Mr. Betz said that the building code and facility size are both considered. Mr. Pontius said the existing building can accommodate 500 students, and this proposal doesn't impact that. He said this plan changes how the facility is used. He said they are trying to replace space used for programming. Commissioner Schultz said that parking is not a good situation now, and the school is asking for more square footage. He said additional parking will help. He said there is quite a back up on Liberty Road when school starts, and that will only increase as the school increases to an enrollment of 500.

Commissioner Wiencek said it is easier to overlook drawbacks when it is unlikely that anything else will be as attractive as the proposed development. He said he is no longer a "definite no," but he still needs to be convinced.

Mr. Betz asked if the school can alter start times to address some of the traffic concerns. Ms. Lasley said they are planning to stagger start and end times for various classes to address those concerns. She added that having only one way in and out is a security precaution. She reiterated that larger events will be held at Grace Brethren church. Commissioner Schultz said he isn't suggesting the two accesses be tied together. He noted that the new Powell elementary school will have two entrances, one for students and one for Staff.

Commissioner Emerick said he agrees with Commissioner Meider. He said he is much happier with the setback. He said he is concerned about parking, and that there is tremendous congestion in the mornings. He said that moving the big events will be a great benefit, and he can live with the plan as proposed.

Commissioner Schultz said that Mr. Betz's Staff report points out that the Commission is not tied to any vote made this evening. He noted that there are only 5 Commissioners present. He said personally, unless there is more space for parking, etc., he is going to vote no because this is getting to an intensity of use that has historically been a problem.

Commissioner Meider said this should not affect traffic any more than it currently does. He encouraged staggering start times. He said this is architecturally far better than an addition to the existing structure.

Commissioner Emerick noted that the two members missing tonight had previously voted to approve this plan.

**MOTION: Commissioner Schultz moved to allow submittal of a Combined Preliminary and Final Development Plan for the Village Academy Commissioner Meider seconded the motion. The motion was approved: Meider, Schultz, Wiencek, Emerick. No: Lackey.**

Mr. Pontius asked if the Commission is approving the project. Commissioner Meider noted that the two members not present this evening were in favor of the plan, and that Commissioner Meider and himself are also in favor. He said that Commissioners Lackey and Schultz are not decided, and Commissioner Wiencek is undecided. Mr. Pontius said the school needs some confidence to proceed and "feel good" about what they are doing. Commissioner Schultz asked Mr. Pontius to "take a count." He said there are four in favor at this point, and one maybe.

#### **FINAL DEVELOPMENT PLAN**

**Applicant:** Fiori Homes  
**Location:** Northwest corner of N. Liberty Street and Seldom Seen Road.  
**Current Zoning:** PR – Planned Residence District  
**Proposal:** Approval of a Final Development Plan for a condominium development containing 78 dwelling units and a clubhouse.

Forrest Gibson, Schmidt Land Design, reviewed the revised development plan in comparison with the initial plan. He made the following notes:

- The water feature on the corner of Liberty and Seldom Seen Roads has been reintroduced, as it was intended to be a "gateway feature." The units have been reconfigured, and reduced to 78 units. (81 are permitted).
- The open space in the northeast corner has been reintroduced to reflect the preliminary development plan. It has been changed due to stormwater concerns, but it has been reintroduced right at the entrance.
- Much of the northwestern portion of the development plan has been adjusted to provide access from Village Park Drive rather than Seldom Seen Road, at the Commission's request. He said the traffic circulation will discourage cut through and provide a good view from the street. He said that he does not feel comfortable with the Village Park Drive access point. He said this plan was changed at the Village's request. Mr. Schmidt said he is concerned about the access point. He said the separation between entryways in the code is significantly larger than what there is right now between Seldom Seen and Middlebury Way, to say nothing of the entrance at this development. He said introducing this entrance significantly reduces the setback between two driveways.

Commissioner Lackey said his understanding is that the people exiting Powell Place would queue beyond the entrance of this development, blocking the entrance. Mr. Gibson said that is one of their concerns, along with the turning movements from this development onto Village Park Drive. He said the reaction time is significantly reduced with this type of intersection, and this is a liability for which they do not want to take responsibility. Discussion ensued. Mr. Betz said there is plenty of sight distance. Commissioner Wiencek said he is not all that concerned, because the people off of Middlebury Way will be coming from a stop. Commissioner Schultz asked to make sure that landscaping doesn't aggravate the problem. Commissioner Wiencek said there is also reference to the distance between Seldom Seen Road and Middlebury. Mr. Betz said the standard is 250 feet, and this is over 300, but that regulation is for public street intersections, and this is a private street with relatively low volume. He said the Village Engineer and traffic engineer have both approved this plan.

- The \$2,000 of landscaping per unit for the entire site will result in significant plant material.
- The concern about the building orientation on Liberty and Seldom Seen Roads has been addressed by reorienting buildings that "backed on" to those roads. Also, recreating the northwest corner provides smaller areas of homes backing up to Powell Place, because the sides of the homes will face them rather than the largest façade, which creates up a great deal of open space to Powell Place to the north

Mr. Gibson reviewed Staff's comments. He said they have reduced the number of units, reintroduced open space, and determined that a left turn lane is needed on North Liberty Road into this development. Mr. Betz said that currently, a left turn lane is warranted from North Liberty Street onto Seldom Seen, but that is a matter for the county and the Township.

Mr. Gibson noted the landscaping element at the southeast corner of the development. He noted the split-rail fence, and an evergreen shrub that provides differentiation between the public and private space.

Commissioner Lackey said that it appears that the sides of buildings often face Liberty Road, and he asked if those sides will be of natural materials. Mr. Gibson said they will. Commissioner Meider asked if the area around the pond is supposed to be mounded. Mr. Gibson said it is not.

Mr. Gibson said that he appreciates Mr. Betz's favorable report and they recognize the 5 conditions he is suggesting. He noted that the materials they are proposing were included in the materials submitted this evening. He showed the Commission their samples for stone and vinyl siding. Mr. Gibson said they are proposing that approximately 20% of the total buildings will be of natural materials.

David Betz, Director of Development, gave his Staff Report on this issue (Exhibit 3). He said that the Village Engineer and Traffic Engineer feel that the volumes coming out of the secondary access (on Village Park Drive) will be so slight there will be no problems with location. He said besides the conditions in the Staff Report, consideration should be given to a northwest connection of the sidewalk along Middlebury Way.

Commissioner Emerick opened the hearing to public comment. Hearing none, he closed the public comment session.

A lengthy discussion ensued regarding vinyl siding. Commissioner Lackey said that he doesn't want to see any more vinyl siding in this development from the road than one sees in Powell Place. He said that in Powell Place, about 50% of the front of houses have vinyl as well as the three other sides. He said the Village has outlawed vinyl, and this is a special case. He said that the Fontana and Brentwood elevations proposed for this development would have the least vinyl siding, and he would like to see units along Liberty and Seldom Seen Roads with no more than 50% vinyl siding. Mr. Gibson said the current plans are that 13/16 of the homes fronting those roads would be one of those two styles. Mr. Fiorita, Fiori Homes, said that may change based on his customer's choices. Discussion ensued.

Mr. Slavik, said that he has no concern with the elevation. He asked how the buildings are permitted through the building department. Mr. Fiori said they usually permit a whole building at one time. Mr. Slavik said that alleviates his concern for the architecture of whole pieces of the environment. Because there will be 3-4 units at a time, the amount of stone relative to vinyl can be considered. He said this development doesn't have a long building fronting a street, so a little bit of stone on a building will appear to be more, particularly with trees, landscaping, and fencing. Commissioner Lackey expressed concern that the Commission won't have the opportunity to review the materials as Mr. Slavik has described.

Mr. Fiorita presented the proposed vinyl siding. He noted that each building has its own shutter and door color, which is pre-determined. Commissioner Lackey said that one subdivision in Powell had a problem with "oil-canning" on darker colors of vinyl siding, and he asked if this is an issue. Mr. Fiorita said he has not had that problem. Commissioner Wiencek asked about the garage doors. Commissioner Lackey asked if the natural materials will total approximately 20%. Mr. Gibson said they will. Commissioner Wiencek suggested that vinyl be "as submitted, as Council asked the Commission to address the percentage of vinyl, and he doesn't think a specific number is needed.

Commissioner Wiencek said he is pleased with the changes to the plan. He asked about the required 130-foot setback from Liberty Road. Mr. Betz said that variance was included in the rezoning of the property. Commissioner Wiencek asked about the maximum number of units per building. Mr. Betz said it is five. Commissioner Wiencek said the buildings have enough "ins and outs" that it should not be a problem. He expressed concern about the 16-foot wide driveways rather than 18, and said they may cause a problem with guests parking two cars in one driveway successfully. Mr. Betz said many single-family homes have 16-foot driveways. Commissioner Wiencek said that he is concerned about on-street parking. He said the Deed Restrictions only give the condominium association the right to restrict parking, but he would like to see the on-street parking restricted or severely limited. He said that the streets are 22 feet wide and he is concerned that people will be discouraged from parking on the driveways due to their size. Mr. Betz said the code requires 3 parking spaces per dwelling, and this plan meets it. Commissioner Meider said he would prefer 16-foot driveways because it allows for more green space. Mr. Fiorita said that his biggest concern is that there be adequate guest parking, and while he doesn't want to eliminate on-street parking, he would support restricting it to one side only. Commissioner Wiencek said he would support that. Commissioner Schultz recommended on-street parking for guest parking only. Mr. Slavik suggested restricting repeat on-street parking.

Commissioner Wiencek asked about completing landscaping first between this development and Powell Place on the northern border of the property. He said that a snow fence could be installed to protect the landscaping while

the homes are built. Mr. Betz said another issue is that there is a landscape easement in that area that the Powell Place Homeowners' Association is supposed to maintain, but the condominium association should take that over.

Commissioner Wiencek asked if the bikepath will be 8 feet wide. Mr. Gibson said it will. Commissioner Wiencek asked how one ensures the ponds will remain wet. Mr. Gibson said he is working with the Village Engineer on this issue. Commissioner Wiencek asked about fence rails that go "right into" the trunks of trees. Mr. Gibson said that is an error in the drawing. Commissioner Wiencek asked how improvements to Seldom Seen will impact the green space between the road and the bikepath. Mr. Betz said that it will be reduced, but he is unsure by how much. He said the street will be widened by two feet and a berm will be added.

Commissioner Schultz said it looks like the green space around the entry on Liberty Road looks completely different than that originally proposed because of the parking for the clubhouse. Mr. Gibson said that is correct, but it is also smaller because of the stormwater management plan. Commissioner Meider asked how much parking is proposed. Mr. Gibson said they are proposing six spots on the north side. Commissioner Schultz said that is a step back from the original plan. Mr. Gibson said there is going to be a significant amount of top soil removed or redistributed on this site, and mounds could be created in that location. Commissioner Wiencek said there is also an area across the street in need of soil, and he asked that the developer coordinate with the Village.

Commissioner Schultz expressed concern about the continuous buildings in the northeast corner and middle building along the south side. Mr. Gibson said that the depth in the façade will break up the expanse, and that the requirements for building separation limits the possibilities for arranging the buildings. Mr. Slavik said the elevation will break up the roof. He said he thinks there is enough variety in elevation, and any additional set back would make it worse. Mr. Fiorita recommended flipping the units in the northern corner so that they are garage to unit, garage to unit. He made the same recommendation for the middle building at the south edge along Seldom Seen Road. Commissioner Schultz concurred.

Commissioner Wiencek said that the Parks and Recreation Advisory Board is looking for an area to provide a formal entrance feature to the Village. He suggested such an area along Liberty Road near the corner of Seldom Seen. Commissioner Schultz suggested a condition that allows for an entry feature between the pond and the corner. Mr. Gibson expressed concern that would be a "taking." Commissioner Lackey said they are asking for an easement. Mr. Betz said he thinks such a feature would be desirable at the Village corporate limits, and it shouldn't be part of this plan. Commissioner Schultz disagreed, and said the Village asks developers for easements all the time. Mr. Fiorita suggested a time limit for acquiring an easement for the feature. After further discussion, the Commission and developer agreed that a 15x 30-landscape easement will be granted if the Village should desire one in the next 5 years at the end of the northern section of the fence at the southeastern pond.

**MOTION: Commissioner Schultz moved to approve the final development plan with the following conditions:**

1. That the applicant meet the requirements of the Village Engineer including stormwater retention, easements, right-of-way dedication and utility layout.
2. That the applicant coordinate the required left turn lane on northbound North Liberty Street with the Village Engineer and the County Engineer's office.
3. That Section 2.B.1. of the text be changed to reflect the secondary access point to be off of Village Park Drive.
4. That a plat for the property including the dedication of right-of-way be submitted to the Commission for approval.
5. That the sidewalk along Middlebury Way shall be continued to connect with the sidewalks along Village Park Drive and Chenango Drive, assuming it isn't already there.
6. That the developer shall have guidelines to restrict parking to only one side of the private streets and restrict repeat on-street parking.
7. That the condominium association take over maintenance of the existing landscape easement along the north edge of the development.
8. That the bikepath shall be 8 feet in width.
9. That the developer provide additional mounding and landscaping around the parking lot at the clubhouse.
10. That the two units discussed shall be flipped to break up the elevations (Exhibit 4).

11. **Should the Village desire, within 5 years, the developer or condominium association shall provide a 15x30 ft. landscape easement between the edge of the road right of way and the pond at the end of the northern section of the fence at the southeastern pond.**

12. **The building materials are approved as shown.**

**Commissioner Meider seconded the motion. The motion was unanimously approved. Yes: Meider, Schultz, Wiencek, Emerick, and Lackey.**

#### **FINAL DEVELOPMENT PLAN**

**Applicant: BUS General Partnership**

**Location: Northwest Corner of Seldom Seen Road and Village Park Drive**

**Current Zoning: PR – Planned Residence District**

**Proposal: Approval of a Final Development Plan for 7 single family detached homes on 7.753 acres.**

Sara Hanes, Bischoff & Associates, said they have addressed all items discussed at the last meeting. She said they have taken care of the Homeowners' Association description and the engineering note. She said that at a meeting with the Village on Friday, issues arose about drainage. She said there is some concern that the pipe for the outlet for stormwater in the area is not large enough. The Village Engineer pointed out that there is ponding within the right of way of Seldom Seen Road. She said in this area, the culvert is 2 feet higher than the ditch line, so to accommodate drainage, they will be installing a dry retention basin with a gradual 1-2 foot depth.

Commissioner Wiencek asked if the grading along the railroad will remain. Ms. Hanes said it will. Commissioner Wiencek asked if having two entrances to other developments across from two driveways is problematic. He asked if consideration should be given to the best placement. Mr. Betz said such configuration occurs throughout the Village. He said that lot six might be best "right-handed."

Commissioner Lackey asked about the signs the developer will use to advertise the homes. Mr. Betz said there are Zoning Code provisions for such signs.

**MOTION: Commissioner Wiencek moved to approve the Final Development Plan with the following conditions:**

- 1. That all final engineering issues conform to the requirements of the Village Engineer.**
- 2. That the property owner be responsible for payment of all property taxes for the parcel being dedicated for the entire year in which the deed is recorded together with all prior years and any agricultural lands recouplement.**

**Commissioner Schultz seconded the motion. The motion was unanimously approved. Yes: Meider, Schultz, Wiencek, Emerick, and Lackey**

Jim Ullman, BUS General Partnership, asked that it be clear that dedication of the park space to the Village is not a condition of approval. Mr. Betz said that is correct, but that if it is dedicated, the Village doesn't want to pay taxes on it. Mr. Ullman said that is understood, and thanked the Village for working with them on that plan.

#### **SUBDIVISION PLAT**

**Applicant: MI SCHOTTENSTEIN HOMES  
Lakes of Powell Section 6, Part 1**

**Address: 10208 Liberty Road**

**Current Zoning: PR – Planned Residence District**

**Proposal: Approval of a Subdivision Plat for Lakes of Powell Section 6,  
31 single family detached homes on 15.568 acres.**

Adam Long, EMHT, was present to answer questions on this plan.

David Betz, Director of Development, gave his Staff Report on this issue (Exhibit 3).

Commissioner Emerick opened the hearing to public comment. Hearing none, he closed the public hearing.

**Commissioner Lackey moved to approve the subdivision plat with the following conditions:**

- 1. That the Village Engineer approves all addresses and easements as required.**

