

From: [RONALD RANDALL](#)
To: [Building](#)
Cc: ronald_randall@sbcglobal.net
Subject: December 19, 2020 meeting
Date: Tuesday, December 15, 2020 10:01:35 PM

Greetings,

I am writing to request that the Planning Dept require the proposed Vintner's Park Development acquire access to Carroll Road. Please advise.

Thank you,
Joanne Randall

**GEIST WOODS ESTATES' RESPONSE TO
THE VINTNER'S PARK PRELIMINARY PLAN AND REQUEST FOR REZONING**

According to its Comprehensive Plan, the Town of McCordsville is committed to “high standard[s] for quality and excellence” and intends to “rais[e] its standards, and striv[e] to provide the best to its residents in terms of housing[.]” *See* Comprehensive Plan, p. 21. To fulfill this commitment with respect to the prime piece of real estate upon which the Vintner’s Park PUD preliminary plan is proposed, and to comply with the Town’s Code of Ordinances, the Plan Commission should either (1) provide an unfavorable recommendation to the Town Council regarding the Vintner’s Park preliminary plan or (2) continue consideration of the plan until it is properly revised and supplemented.

The Geist Woods Estates Homeowners Association Board, which is the HOA board for adjoining landowners to the proposed Vintner’s Park PUD, provides the following items that must or should be fixed in the preliminary plan before the Plan Commission can forward the plan with a favorable recommendation to the Town Council:

1. **A traffic study must be provided by the applicant showing that the Vintner’s Park development will not materially or adversely impact connecting and nearby roadways.**

The applicant previously committed to ordering a traffic study concerning the impact of the proposed Vintner’s Park plan on neighboring roadways. Upon information and belief, Town of McCordsville representatives made a formal request for the study pursuant to Section 8.03(D)(7) of McCordsville’s Zoning Ordinance. The Town and the community must have a reasonable opportunity to review the traffic study before the Plan Commission allows the applicant to proceed with a favorable recommendation. Indeed, the Plan Commission is prevented from considering the applicant’s preliminary plan until the traffic study has been submitted as Section

8.03(K) of McCordsville's Ordinance provides that the Plan Commission must review the preliminary plan along with "any other applicable, adopted planning studies or reports" in order to arrive at a decision.

Traffic is a primary concern of the Geist Woods Estates neighborhood, and it should be a concern for the entire Town. With the current construction of a number of new neighborhoods along or near Carroll Road and 900N, it is imperative that the proposed Vintner's Park development does not materially harm or alter traffic on existing roadways. If it does, then mitigation measures must be taken by the Town or the applicant to address any material changes to traffic flow and patterns.

2. The Applicant must supplement its plan to include the information required under Section 8.03 of the Zoning Ordinance.

Section 8.03 of McCordsville's Zoning Ordinance includes of number of items needed for proper consideration of a preliminary PUD by the Plan Commission. The applicant's plan omits or fails to adequately include several of those items. Among other things:

- a. Section 8.03(D)(6)(l) of McCordsville's Ordinance states that the applicant's plan must include "[a] statement of the proposed order of development of the major elements of the project, including phasing, if applicable, and the order and content of each phase." No such statement regarding phasing has been provided.
- b. Section 8.03(D)(6)(d) requires the applicant to include with its plan a "conceptual design of landscaping, buffering, and/or screening proposed for the development, wooded areas to be preserved." The landscaping plan provided by the applicant is included as Exhibit E to the preliminary plan, but Exhibit E only pertains to the entry of the development off W 900 N and it makes no mention of landscaping, buffering,

and/or screening proposed on the side of the development neighboring Geist Woods Estates.

- c. Section 8.03(D)(6)(c) states that the applicant's plan must include details about "[t]he proposed location, improvements to open space (including park facilities, natural areas, trail systems, and other common areas)." While there are maps showing common areas, there is no information regarding other amenities that might be expected for a development of this size (e.g. playground, pool, recreation areas, etc.).
- d. Sections 8.03(D)(6)(a) and (g) provide that the street systems, including information about "sign standards," must be included as part of the plan. The applicant's plan omits information about the location of stop signs or any information about whether speed bumps or other tools will be used to slow the speed of traffic through the proposed Vintner's Park development.
- e. Section 8.03(D)(6)(h) provides that a preliminary plan must include "[a] description of any written commitments that are being proposed as part of the development." No identifiable commitments were proposed by the applicant.
- f. Section 8.03(D)(6)(i) provides that a preliminary plan must include "[a] description of any private covenants and restrictions that will be established for the development." No identifiable private covenants and restrictions were proposed by the applicant.
- g. Section 8.03(D)(6)(j) provides that a preliminary plan must include "[a] detailed drainage concept meeting the requirements of the Town Engineer." It is unclear whether the applicant's plan meets the Town Engineer's requirements.
- h. Section 8.03(D)(6)(k) provides that a preliminary plan must include "[a] site lighting plan prepared by an electrical engineer licensed by the State of Indiana . . . showing the

type and location of all exterior lighting fixtures (site and building lighting). The lighting plan must include a photometric drawing.” The applicant’s plan lacks the information required and may not have been prepared by a licensed electrical engineer. Additional information must be provided by the applicant before its preliminary plan can be considered complete, compliant with McCordsville’s Zoning Ordinance, or ready for review by the Plan Commission.

3. The applicant must adequately protect existing and natural buffers between Geist Woods Estates and the proposed Vintner’s Park development.

The applicant has previously represented that the existing tree line behind homes on Silverthorne Drive would be largely unaffected during and after completion of the Vintner’s Park development. Unfortunately, the proposed PUD is inconsistent with those prior representations. As written, the applicant could potentially eliminate the entire tree line buffer between Geist Woods Estates and the proposed Vintner’s Park.

Section 3(E) of the proposed PUD ordinance, titled “Perimeter Landscaping Standards,” is completely silent regarding any buffer along the border of Geist Woods Estates. Instead, and located in certain maps and surveys completed by Stoeppelwerth & Associates, Inc., the applicant is only proposing a 10-foot “tree conservation area.” 10 feet is very small, especially considering that the existing area of trees behind the homes on Silverthorne Drive is approximately three-to-four times that size according to the Stoeppelwerth surveys.¹

As drafted, the proposed 10-foot tree conversation area is also hardly a conservation area at all. According to Section 3(F) of the proposed PUD ordinance, the Vintner’s Park developer can eliminate all existing trees within the 10-foot area having a diameter at breast height of less

¹ The tree line, even if it were to remain completely unaffected, still appears small enough in most locations to accommodate construction of new homes on the proposed lots in Vintner’s Park behind Silverthorne Drive.

than 6-inches. But, even if a tree has a diameter at breast height in excess of 6-inches, the developer has the discretion to eliminate *any* tree regardless of size if it is “damaged[.]” The Plan Commission surely agrees that most trees show at least some damage, which means most (if not all) of the existing tree line could be removed. But, even if there are (a) perfectly undamaged trees, with (b) diameters at breast height of more than 6-inches, and that (c) are located within the meager 10-foot conservation area, as drafted the developer has the discretion to eliminate any tree “to accommodate the installation of drainage improvements.” According to the Stoeppelwerth surveys, the entire 10-foot conservation area proposed behind homes on Silverthorne Drive is contained within a proposed 20-foot drainage and utility easement—which effectively renders the proposed conversation area meaningless.

The Plan Commission should require the applicant to provide documentation showing that the existing tree buffer will be preserved behind Silverthorne Drive. All current exceptions to the conservation area proposed by the applicant should be removed. The applicant should also detail with specificity in Section 3(E) of its plan the additional landscaping requirements proposed to further buffer and differentiate Vintner’s Park from Geist Woods Estates.²

4. The applicant must remove the unfettered discretion granted to the Architectural Review Committee to approve architectural standards and elevations that fall below the standards proposed by the applicant.

In Section 3(D) of the proposed PUD ordinance, the applicant states that “[t]he Architectural Review Committee may approve elevations that do not meet the architectural requirements outlined in ‘Exhibit C’ if the Architectural Review Committee concludes the standards conflict with a historical architectural style.” This unlimited discretion is problematic

² It is also worth noting that it is unclear from the Stoeppelwerth surveys whether the existing sidewalks in Geist Woods Estates will cleanly meet up with sidewalks proposed in Vintner’s Park at or near the Dogwood Drive stub street. While we assume this will not be an issue, reassurance from the applicant would be appreciated.

and ambiguous. For instance, what is a “historical architectural style?” It is undefined, and it seems like an easy phrase to rely upon to approve changes that fall below the standards proposed by the applicant.

Additionally, the roles and responsibilities of the Architectural Review Committee as explained in Section 2.06(D) of the Zoning Ordinance are to, among other things, “[o]ffer opinions . . . in order to *improve* the aesthetic quality of the project” or to otherwise ensure “compatibility with all applicable standards, regulations, and commitments.” (emphasis added). As drafted, the preliminary plan would allow the Architectural Review Committee to approve architectural requirements that are incompatible with applicable standards and potentially *decrease* aesthetic qualities. This same potential problem is found in Exhibit C, paragraph 2, to the proposed PUD ordinance, which would improperly permit the Architectural Review Committee to “approve a home with a lesser roof pitch” than otherwise required. These discretionary statements that are clearly inconsistent with the role and responsibilities of the Architectural Review Committee must be removed.

5. The applicant should specifically forbid use of streets in Geist Woods Estates for construction traffic.

Absent from the preliminary plan is any mention regarding construction traffic through Geist Woods Estates during any future construction of the proposed Vintner’s Park development. Many Geist Woods Estates residents have expressed concerns regarding safety and other issues associated with large construction vehicles and materials traveling through the quiet neighborhood. These safety issues should be addressed, and the applicant should be required to update its plan to specifically forbid construction traffic and travel through Geist Woods Estates. Fines or punitive measures may be appropriate to enforce such travel restrictions.

6. **The applicant should improve a number of its architectural and development standards.**

Section 3 of, and Exhibit C to, the proposed PUD ordinance contain a list of the applicant's anticipated architectural and development standards. The proposed standards either fall below those already established in neighboring Geist Woods Estates or fall below the standards that should be expected by the Town for this significant piece of land. Here are some of the standards that should be improved:

- a. **Minimum Building Separation.** In both Area B and Area C lots (as defined by the applicant), the minimum building separation proposed is only 12-feet. By comparison, the minimum established in neighboring Geist Woods Estates is 20-feet. A minimum of 20-feet is more than reasonable for Vintner's Park, and it should be required.
- b. **Masonry and Brick Requirements.** In Exhibit C, paragraph 5, the applicant is only proposing that 50% of the homes in the entire development have a front elevation of at least 50% brick or stone. Also, the applicant is only proposing that homes have a 30-inch brick or stone wainscot wrap. The Town should require more of Vintner's Park, particularly since neighboring homes in Geist Woods Estates require all homes to have the entire first floor wrapped with brick or stone. Any claim that a small 30-inch wrap of brick or stone could somehow improve an aesthetic lacks merit and is unreasonable.
- c. **Anti-Monotony Standard.** As proposed in Exhibit C, paragraph 11, and as further defined in Section 3(I) of the proposed PUD ordinance, the applicant proposes that "[t]here shall not be more than 10 percent of the same front elevation in the subdivision." However, there are 127 lots in the proposed development, meaning 12 homes could look identical. This requirement also means there could potentially only be about 10 different homes in the entire neighborhood. We recognize that in Section

3(I) of the preliminary plan the applicant proposes an anti-monotony standard where three homes need to separate the same elevation, but that means little considering how compact many of the lots will be in the neighborhood, especially in Area C. As written, Section 3(I) also means that identical looking homes could be placed directly across the street from each other. More variety and less monotony should be expected by the Town in this land that will be adjacent to Daniel's Vineyard and Geist Woods Estates. For perspective, Geist Woods Estate's PUD mandates that "[n]o exterior front elevation may be repeated in the subdivision." While that mandate may be unreasonable for Vintner's Park, it should serve as justification to increase the proposed requirements for Vintner's Park.

- d. **Rear Elevations of Homes Abutting Geist Woods Estates.** In Exhibit C, paragraph 7, the applicant proposes requiring a minimum two-foot bump-out on the back of homes that abut Geist Woods Estates. A two-foot bump-out barely differentiates these homes from the others in the proposed development, and it would provide a stark contrast in quality and style to the homes in Geist Woods Estates. More than two-feet should be the minimum requirement throughout the entire proposed Vintner's Park development, and substantially more should be expected for the homes that abut Geist Woods Estates. For instance, anti-monotony standards should be enforced for all rear elevations of homes that abut Geist Woods Estates.
- e. **Window Requirements.** The applicant proposes more stringent window requirements for the side elevations of a small number of homes in Exhibit C, paragraph 9, of the preliminary plan. These stricter requirements only apply to 20 of the 127 homes planned in Vintner's Park. It is reasonable for the Town to require all 127 homes to

have these stricter requirements, which requirements are relatively minimal: two windows on the side of ranch homes and three on two-story homes. It is also appropriate considering that, as proposed, the other 107 homes in Vintner's Park are only required to have one window on the side of ranch homes and two on two-story homes. *See* Exhibit C to preliminary plan, paragraphs 14-15.³

- f. **Landscaping Requirements.** In Exhibit C, paragraph 26, the applicant identifies its landscaping requirements for homes. The proposed requirements are incomplete and insufficient. The requirements are incomplete because they do not address whether lots will be sodded or seeded, whether and what mulch is required, or whether and what landscaping is required for the rear of homes. The requirements are insufficient because they are minimal and primarily consist of undefined shrubs "planted along the front foundation of the primary structure." Additional plants should be required, and additional privacy trees should be required for the rear of all lots that abut Geist Woods Estates.
- g. **Monument Signs.** In Section 3(H), the applicant notes its intention to construct a "secondary monument column . . . at the stub street connection with Geist Woods Estates for internal identification." However, there is no description in the preliminary plan or its exhibits regarding the look and style of the monument column, its precise location, or whether any lighting is anticipated for the monument column.⁴ The preliminary PUD should be revised to include this additional detail.

³ For clarity, the applicant should also revise paragraph 16 in Exhibit C. As written, it is unclear what the phrase "which do not open" is intended to modify.

⁴ Any proposed lighting should be minimal to avoid any disruption for homeowners near and around any monument.

- h. **Daniel's Vineyard.** Section 3(K) is titled "Daniel's Vineyard," but the section is unintelligible. It should be revised to more clearly state the intended purpose of the reference to Daniel's Vineyard.

7. The applicant should review and update its exhibits.

In addition to updating its exhibits and plan as outlined above, the applicant should review and potentially renumber its exhibits. The current exhibits included with the plan skip from C-2 to E. We are concerned that the applicant may have inadvertently omitted an Exhibit D. If something was omitted, we simply ask that the Plan Commission and we have an opportunity to review it.

* * *

For the reasons provided in this submittal, the Town of McCordsville Plan Commission currently lacks the ability under the Town's Ordinances to recommend approval of the preliminary plan for the Vintner's Park PUD.

Dated: January 12, 2020

Respectfully submitted,

FAEGRE DRINKER BIDDLE & REATH LLP

By: /s/ Matthew C. Olsen

Matthew C. Olsen (#31449-49)
300 N. Meridian Street, Suite 2500
Indianapolis, Indiana 46204
Telephone: 317-237-0300
Facsimile: 317-237-1000
matthew.olsen@faegredrinker.com

*Attorney for Geist Woods Estates
Homeowners Association Board*