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TO: Town of Dover Planning Board
c/o Rafael Rivera, Chairman
37 North Sussex Street
Dover, NJ 07801

FROM: Nicholas A. Graviano, PP, AICP, JD

RE: P26-02
180 and 220 Ann Street
Block 407, Lots 1 and 20
Nicholas Estates, LLC ("Applicant")
Preliminary & Final Major Subdivision Application
Planning Review #2

DATE: October 28, 2026

A. Project Update From Last Hearing

As a result of the Board's and Board Professional's comments at the last hearing for the application, the Applicant revised the plans and provided an Environmental Impact Statement (EIS). The Applicant also provided revised engineering plans titled, "Preliminary & Final Major Subdivision Plan" prepared by Marc G. Walker, P.E., of Dykstra Walker Design Group, dated June 26, 2026, last revised October 15, 2026.

The key plan revisions include:

- The existing conservation easement is now proposed to remain.
- Three (3) single-family lots were removed and the plan was redesigned, reducing the total number of proposed single-family dwelling lots from 22 to 19.
- The Applicant provided an updated tree removal plan that indicates the net tree removal will be 294 trees.
- Sidewalks have been provided along Ann Street.
- Steep slope disturbance has been reduced from the last iteration of the plan.

B. Project Summary

1. The Applicant proposes a major subdivision on Block 407, Lots 1 & 20 to create 19 single-family residential lots and one (1) conservation lot. The existing two (2) story dwelling at 180 Ann Street will remain. The residential lots would be served by Ann Street and an extension of Beaufort Avenue terminating in a cul-de-sac.

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2. The existing parcels are identified as 180 and 220 Ann Street and encompass approximately 396,208 sq. ft. (9.096 acres). The tract contains the existing dwelling, accessory improvements and wooded land extending toward Prospect Street.

3. The proposed residential lots range from 8,000 sq. ft. to 30,448 sq. ft.

4. The subdivision proposes Lot 1.17 as a conservation lot containing 2.31 acres (100,614 sq. ft.)

5. The site is located in the R-1 Single Family Residential District, which permits single-family detached dwellings.

6. Proposed site work includes the roadway extension and cul-de-sac, driveways, sidewalks and curbing, retaining walls, grading, drainage and utility improvements, and lighting and landscaping. Drainage improvements include surface and subsurface infiltration facilities, drywells and connections to the drainage system in Prospect Street. The plans also identify proposed conservation and utility easements.

7. The Applicant's engineer indicates that there are no floodplains or wetlands on the site.

C. <u>Relief Required</u>

The Board Engineer's 10/28/2026, review letter provided the following on Page 2:

"The Applicant's Response Letter dated October 15, 2026, states that the project no longer requires a steep slope disturbance variance and no variances are proposed. The Subdivision plans have been revised to move the dwellings forward on proposed lots 1.14 and 1.15 so that they avoid steep slope disturbance. However, there appears to still be small portions of steep slope areas within the dwelling on proposed lot 1.16 and the southwestern corner of the aboveground basin. The Steep Slope Map, Sheet 8, shall be revised to show the square footage and acreage for these areas."

The Applicant should provide testimony regarding the statement above to determine if a variance is still necessary, and to what extent. In the event that a variance is required, see below.

"c" Variances:

- **<u>From Town of Dover Code Section 236-21.2B(2)(a)</u>** in that nonexempt disturbance within critical slope areas is prohibited, and critical slope disturbance is proposed.

"c" Variance Proofs:

There are two kinds of "c" variances; "c(1)" and "c(2)"; both must apply to a specific piece of property.

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A "c(1)" variance is sometimes called "the hardship variance". The Applicant must prove hardship as outlined in the MLUL 40:55D-70c (1) where:

> (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or;
>
> (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or;
>
> (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship.

If hardship is proven, the Applicant must also show that such relief from the zoning ordinance will not be substantially detrimental to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. This second criteria is called the negative criteria.

For a "c(2)" variance, (see 40:55D-70c(2), proof of hardship is not necessary. Two things must be proven to receive approval for a c(2) variance:

> (1) An applicant must show that the purposes of the MLUL (40:55D-2) would be advanced by a deviation from the zoning ordinance requirement and that the benefits of the deviation would substantially outweigh any detriment; and
>
> (2) that the variance can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance (negative criteria).

D. <u>General Comments</u>

1. We defer to the Board Engineer to any requested waivers, confirmation of the tree removal plan and any required fees, and confirmation of the Applicants steep slope analysis.

2. All of our major concerns from the first review letter have been addressed. We have no planning related concerns with the application. All outstanding items are related to engineering.

3. The Applicant shall confirm all proposed lots will meet ordinance bulk requirements and that the proposed ROW will meet RSIS standards.

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4. The Applicant's response letter indicates that testimony regarding the architecture of the buildings will be provided.

5. The Applicant shall be responsible for any residential affordable housing fee in **Town of Dover Code Section 236-63.4** and confirms that any applicable fee will be paid.

6. As per **Town of Dover Code Section 236-23** building numbering shall be in figures at least three inches in height with a one-half-inch stroke, placed conspicuously on the front of each dwelling.

   The Applicant will conform the requirement.

7. The Applicant provided required site triangles pursuant to **Town of Dover Code Section 236-34.**

8. Building numbering shall be approved by the Postmaster. Lot numbers shall be approved by the Tax Assessor.

   The Applicant will conform to this requirement.

9. No development signage is proposed. Nor is any recommended.

10. The Applicant shall not be able to apply for a zoning permit until all conditions of the Planning Board approval are met. Resolution compliance plans shall be submitted to the Board Secretary for distribution to the Board Attorney, Engineer and Planner.

11. The Applicant shall obtain all necessary approvals, permits or developer's agreements from Morris County Planning, NJDEP, NJDOT, Water/Sewer Commission, Morris County Soil Conservation District, the Town of Dover Building Department, Fire Department, Law Department, Tax Assessor, Health Department, Finance Department, Planning & Zoning Department or any other department or agency with jurisdiction over the project.

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Site Aerial



Source: Google – Image date 4/20/2026

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Please contact our office with any questions.

Thank you,



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