

## Dovale Industries CGA Hardship Application Decision 200-591-3-4

3/9/94 - Commission denied application.

4/13/94 - Commission adopted a written decision and findings of fact.

Excerpts from minutes of these two meetings, plus the written decision, follow.

### *Summary of March 9, 1994 Commission Meeting Riverhead County Center*

*Present: Commissioner Gaffney, Commissioner Haynes, Commissioner Thiele, Ms. Filmanski(alternate for Commissioner Janoski), Jessie Garcia(alternate for Commissioner LaMura), Mr. Corwin(director), Mr. Rigano(general counsel), Ms. Roth(general counsel).*

**2. Compatible Growth Area:**  
• **Dovale Industries, Inc.**

**Summary:** Mr. Corwin read a summary of the application for this project that was provided to the Commissioners. A decision must be made on this application by March 15th. A public hearing was held on this application on February 2, 1994. The issues with this application are whether it meets the interim goals and standards and whether the applicant has indeed received all local approvals. The application had received zoning board of appeals approval although deemed incomplete by the County Planning and Pine Barrens Review Commissions and was never returned to the County Commissions for reconsideration. After a discussion with Doris Roth on the procedural concerns with this application, Commissioner Gaffney decided to defer this matter until later in the agenda when it could be learned what the vote was by the ZBA on this application. Commissioner Thiele expressed his agreement with a statement made by Carole Swicke(Commissioner of the Brookhaven Planning Dept.) at a Commission work session and at the public hearing for this project that the lot sizes for this project were inconsistent with the 2 acre zoning in this area and could therefore set a precedent in this area by allowing denser development to occur.

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Jessie Garcia reported back to the Commissioners that the Dovale application was unanimously approved by the town's zoning board of appeals (5-0 vote) on October 28, 1993. A motion was made by Commissioner Thiele to deny the application that was seconded by Mr. Garcia. The motion was unanimously carried.

*Corrected  
Approved 4/13/94*

**Central Pine Barrens  
Joint Planning and Policy Commission**

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Robert J. Gaffney, *Chairman*  
John LaMura, *Vice Chairman*  
Ulric S. Haynes, *Member*  
Joseph F. Janoski, *Member*  
Fred W. Thiele, Jr., *Member*

P.O. Box 587  
3525 Sunrise Highway, 2nd Floor  
Great River, New York 11739

**Minutes**

**Meeting April 13, 1994**

**Riverhead County Center 2:00 p.m.**

*Present: George Gatta (for Commissioner Gaffney, Jessie Garcia and Emily Pines (for Commissioner LaMura), Ray Cowen (for Commissioner Haynes), Brenda Filmanski (for Commissioner Janoski), Ray Corwin (Executive Director), Lorraine Trezza (Administrative Assistant) and Doris Roth and Jim Rigano (General Counsel).*

1. **Compatible Growth Area**

- Adoption of Dovale Enterprises written decision

*A motion was made by Commissioner Thiele and seconded by Ms. Filmanski to adopt the written decision on Dovale Enterprises application. The motion was carried unanimously.*

**DECISION AND FINDINGS OF FACT  
COMPATIBLE GROWTH AREA DEVELOPMENT APPLICATION**

**Applicant:**       Dovale Enterprises Inc. (contract vendee)  
                          Chapman Boulevard Subdivision

**Property Location:**   East side of Chapman Boulevard, 2085 feet  
                                  north of Jamaica Avenue, Manorville, Town of  
                                  Brookhaven, County of Suffolk.

**Description of Proposed Development:**

The applicant wishes to construct a single-family dwelling on each of two contiguous parcels. Each parcel is approximately 1.25 acres. The property is zoned two-acre residential. All required area variances were granted by the Brookhaven Board of Zoning Appeals, subject to approval by this Commission.

**Date of Public Hearing Before the Commission:**

**Decision of the Central Pine Barrens  
Joint Policy and Planning Commission:**

By resolution dated March 9, 1994, the Central Pine Barrens Commission voted to deny the application based upon the findings of fact set forth herein.

**Findings of Fact:**

The subject property consists of two contiguous, unimproved parcels located in an A-2 residential zoning district in the Town of Brookhaven. One parcel contains 50,955 square feet; the other contains 50,920 square feet. The parcels are 100 and 84 feet wide respectively, and 509 feet deep. Both are non-conforming as the A-2 zoning district requires a minimum lot size of 2 acres or 80,000 square feet.

By decision dated October 27, 1993, the Town of Brookhaven Board of Zoning Appeals issued a negative declaration under SEQRA and granted the area variances needed to divide the parcels and construct a single-family dwelling on each parcel.

The parcels are located in a Special Groundwater Protection Area and in the Compatible Growth Area of the Central Pine Barrens. The record indicates that the site is presently 100% vegetated with typical Pine Barren vegetation.

Pursuant to ECL § 57-0121(8), no development is permitted in the Central Pine Barrens prior to the adoption of a comprehensive land use plan. However, under ECL § 57-0121(9), the Pine Barrens Commission is required to adopt Interim Goals and Standards for development in the Compatible Growth Area prior to adoption of the land use plan. The Interim Goals and

Standards were adopted by the Commission in October, 1993. The standards provide that the paramount goals of the Commission are the protection of groundwater quality and of native vegetation and habitats, and that an increase in density in the use of land constitutes a threat to these goals. The Interim Goals and Standards further state that the preservation of open space is a central goal of the Commission. The development criteria in the Interim Goals and Standards consist of specific standards for several areas of concern which include groundwater, wetlands, rare and endangered species, native vegetation disturbance and open space management. The document expressly provides that an applicant must meet all the standards before any development may proceed.

The Town of Brookhaven A-2 zoning district, which applies to the subject parcel, requires 80,000 sq. feet of lot area. The A-1 zoning district requires only 40,000 sq. feet. The applicant wishes to develop the A-2 lot at a density level which approaches that of the A-1 zoning district and therefore the criteria in paragraph 10 of the Interim Goals and Standards (Rezoning of Land) are relevant. Under this paragraph, a rezoning which increases the density of land use may threaten the protection of native vegetation and habitat.

The Commission further finds that the construction of two dwellings, one on each of the two parcels, will have a greater negative impact on the preservation of open space than would a single dwelling on both lots. The intensity of the use of the subject property taken as a whole will be twice as great if two dwellings are constructed, and in fact will approach the density permitted in the A-1 zoning district. The inevitable greater loss of open space from the increased density is not consistent with the Interim Goals and Standards. The Commission finds that the applicant has failed to satisfy all the criteria of the Interim Goals and Standards.

The application is denied.