

THE MARTHA'S VINEYARD COMMISSION

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Martha's Vineyard Commission Minutes for the Regular Meeting of January 16, 2003

The Martha's Vineyard Commission (the MVC or the Commission) held its Regular Meeting on Thursday, January 16, 2003, at 7:30 in the first floor conference room at the Commission Offices in the Olde Stone Building, 33 New York Avenue, Oak Bluffs, Massachusetts.

At 7:37 p.m., a quorum being present, the Regular Meeting convened. Presiding was James Athearn, a member at large from Edgartown and the Commission Chairman. *[Commissioners seated at the gavel were: J. Athearn; C. Brown; J. Greene; T. Israel; D. Moore; K. Newman; A. Schweikert; D. Sederholm; L. Sibley; and R. Toole. Ms. Ottens-Sargent arrived at 7:40 p.m. as Ms. Brown was reading the Notice of Public Hearing.]*

The Chairman then turned over the gavel to Christina Brown, a member at large from Edgartown, Chair of the Land Use Planning Committee (LUPC) and the Hearing Officer that evening.

Public Hearing: Colonial Drive Real Estate Corp. (DRI No. 444-2).

Ms. Brown read into the record the Notice of Public Hearing for the Colonial Drive Real Estate Corp. Development of Regional Impact (DRI No. 444-2). *[See the Full Commission Meeting File of January 16, 2003 (the meeting file) for a copy of the notice.]*

[Secretary's Note: The procedure for an earlier Application for the same project in late 2002 (DRI No. 444-1) ended with the Applicant's Withdrawal Without Prejudice. See the Full Commission Meeting Minutes of December 19, 2002, pages 1 through 14.]

Next, Ms. Brown outlined the procedure that would be followed for the Public Hearing. Chairman Athearn then stated for the record that he was recusing himself from this Hearing. *[Chairman Athearn left the meeting room and did not return until after the closing of the Public Hearing. Thus, the Commission members seated for the Colonial*

Drive Real Estate Corp. Hearing were: C. Brown; J. Greene; T. Israel; D. Moore; K. Newman; M. Ottens-Sargent; A. Schweikert; D. Sederholm; L. Sibley; and R. Toole.]

Applicant's Presentation.

Ms. Brown advised the Applicant to display his site plan in such a way that all could see it. **Steve Bernier, the Applicant**, introduced himself as the owner of the Cronig's Markets as well as the so-called Islander Building, where the development was proposed. He introduced **engineer Douglas R. Hoehn of Schofield, Barbini & Hoehn**, who was there "for moral support."

Mr. Bernier referred the members to a document titled "Colonial Drive Real Estate Corp., d.b.a. 'Healthy Additions,' Proposed: 'Vitamin, Supplement etc. store,' January 2003." *[See the meeting file for a copy of the package.]* He then proceeded to go through these material page by page.

Mr. Bernier went through the plan of the site as it now existed and described how in 1993 he had relocated the entrance off State Road and had established another access off Colonial Drive. He related that when MS Transportation Systems had done a traffic study on the segment of State Road parallel to the front of the Cronig's Market building, he had discussed with traffic engineer William Scully where the entrances and exits should be.

Mr. Bernier described the circulation route taken by trailer trucks entering the site, unloading in back of the Cronig's Market building and leaving by the Colonial Drive exit. "I can't see that flipping the entrance and exit back would gain anything," he remarked.

Noting that under an earlier Decision by the Commission (DRI No. 444) he had been required to paint directional lines on the parking surface, Mr. Bernier stated that he would do so again after the lot was resealed in spring of 2003.

Mr. Bernier testified that the trailer trucks parked at the part of the parking lot parallel to Colonial Drive "only if absolutely necessary." He had spoken with his landscaper about trimming the *rosa rugosa* to just 2.5 feet in height so as not to impede the sightlines while exiting onto Colonial Drive. He would also be installing a Stop sign so that drivers would know to stop before exiting.

Mr. Bernier pointed out that the curb cut for the Colonial Drive exit had been located so far down Colonial Drive because this would allow for more stacking distance for cars waiting to exit from Colonial Drive to State Road.

In three to four years, when the parking lot was repaved, Mr. Bernier continued, he would attempt to relocate the entrance to the Cronig's Market building itself as well as the

handicapped parking to see if enough space could be gain to allow him to do "square" parking spaces. "We have a lot of commercial vehicles on the Island," he observed, and the angular spaces would be easier to get in and out of.

Mr. Bernier explained that all the granite edging and islands as well as the underground sprinkler system would have to be moved when the parking lot as repaved. The sealing being planned for the spring would last three to four years, he said, at which point he would consider if he could put in perpendicular parking. In the interim, he added, he would have bi-directional arrows painted on the lot surface after the sealing.

Mr. Bernier testified that he had installed three drains along Colonial Drive and that Peterson Catch Basin Services had cleaned these out in June and September of 2002. "I cleaned the drains a dozen times myself," he said. Recently, the drain nearest State Road had had leaves in it, he conceded. Then he distributed sheets containing the catch basin clean-out schedule.

Since he had met with the Commission in December, Mr. Bernier went on, he had met with Tim Anthony, one of the abutters who had attended the Public Hearing on December 19, 2002 for Mr. Bernier's earlier Application (DRI No. 444-1). Mr. Bernier pointed to a spot on the lower left corner of the site plan to indicate where the light whose glare had been bothering Mr. Anthony was located. His electrician had repositioned the fixture to a 45-degree angle, said Mr. Bernier, although Mr. Anthony had told him that it was "still a problem." So he had had removed the 175-watt bulb in the fixture. If for some reason the bulb had to go back in, he would contact Mr. Anthony, he stressed.

Engineer Douglas Hoehn provided a history of the deed rights to Colonial Drive. Originally, he recounted, Colonial Drive had extended only from State Road to where the catch basins were now. At one time, Mary Cournoyer had owned the whole piece of land in that area, including the lot where the Martha's Vineyard Insurance building now stood. Mrs. Cournoyer had conveyed the right of way to Colonial Drive to the previous owners of Cronig's Market. "We have documentation that says Steven [Bernier] has the right of way," Mr. Hoehn emphasized.

Turning to page 3 of his document, Mr. Bernier went over the changes he was proposing for the exterior of the Island Building, including: the installation of an irrigation system to support the planting of wildflowers, native plants and shrubs; a shed roof attached to the front of the building that would "help aesthetically, although it's not necessary"; a cement walkway from the existing parking lot to a new automatic bi-directional door system (in approximately the same location as the existing doorway); and the moving of the Red Cross bin to a still-undetermined location.

Next, Mr. Bernier outlined the changes he was proposing to the building's interior, which included the installation of an elevator at the back right corner of the building for receiving freight and sending it to the second floor. Most of the goods to be sold in the

Healthy Additions store would be delivered via United Parcel Service and Federal Express, he related, and goods being delivered to Cronig's Market would still be sent to the freight door in back of the grocery store building.

Also on the interior of the Islander Building would be a "people" elevator, Mr. Bernier reported, that could also accommodate freight. The existing floor system would be replaced in order to remove existing interior walls, with these being replaced by six Lolly columns. Rest rooms would be installed on the second floor per the approval of the Tisbury Board of Health, and the first and second floors, including all shelving would be made of wood, also per approval of the Board of Health.

Other considerations, Mr. Bernier continued were: that customers for either of the business on the site could park anywhere in the Cronig's parking lot and shop at one or the other stores or both; that customers could choose to use the Colonial Drive entrance-exit access or the two cuts off State Road; and that in time, as more customers shopped at Healthy Additions, he expected the side parking area to be used more, balancing the use of the lot as a whole.

Mr. Bernier turned to page five of his report, which described the product mix he planned for Healthy Additions as well as a list of product categories. He related that there were about 10,000 items that currently Cronig's Market could not sell because it was not a health food store. The supplements and vitamins that were already sold in Cronig's would continued to be sold there, he said. "Those are different," he stressed.

Next, Mr. Bernier went over the square-footage analysis for the new store. The footprint of the building was 60 feet by 42 feet, for a total of 2,520 square feet. The gross sales floor on the inside would be 2,419 square feet. If one then subtracted the space for the stairwell (90 square feet), the utility closet (64 square feet) and the elevator/storage area (375 square feet), one arrived at 1,890 square feet of usable sales floor on the first floor.

On the second floor, Mr. Bernier went on, the elements were the same, plus the two restrooms would take up 128 square feet, leaving 1,762 square feet of usable sales floor, for a total of 3,652 square feet for both floors.

Mr. Bernier explained how in comparing Healthy Additions' square footage to Cronig's, one had to consider industry standards, which indicated that second-floor sales areas generated only 50 percent of the sales generated by first-floor retail spaces. Therefore, with that in mind, the total square footage of sales floor in Healthy Additions would be 1,890 square feet (first floor), plus one-half of 1,762 square feet (second floor) or 881 square feet, for a total of 2,771 square feet or 24 percent of the sales floor space in Cronig's market, which measured 11,600 square feet.

Moving on to the subject of product analysis, Mr. Bernier explained that Cronig's Market would continue to carry the 2,500 natural-food products that were currently integrated

with "brand" products. However, certain health food distributors would not sell to a conventional grocery store, he related. Therefore, he was seeking to provide a venue for the sale of *those* products. He would have to be in a separate physical structure, he said.

Healthy Additions would be carrying about 10,000 non-food items, and he expected, Mr. Bernier noted, that Cronig's customers would tend also to shop there. He emphasized that for the most part he did not expect Healthy Additions to be a destination but rather an extension of existing errands.

He believed, Mr. Bernier went on, that there was a natural compatibility between the existing grocery store and the "vitamin, supplement, et cetera" store and that Healthy Additions would be used "by a high number of Cronig's shoppers" who tended to be "environmentally conscious."

Mr. Bernier explained that if 80 percent of the expected customers for Healthy Additions were already making a trip to Cronig's Market and if 10 percent of the expected customers for Healthy Additions were already on other errands, then only 10 percent of the Healthy Additions customers would generate new trips on that segment of State Road.

In summary, Mr. Bernier estimated that 80 percent of Healthy Additions customers would already be making a shopping trip to Cronig's Market, 10 percent would be customers on errands to other businesses, and 10 percent would be customers whose destination was Healthy Additions. So to evaluate that last 10 percent of customers, one would take 10 percent of 24 percent of Cronig's August 2002 customer count. Thus, 2.4 percent of Cronig's customer count for the first week of August 2002 would come to 57.6 "new" customers daily to Healthy Additions.

Furthermore, said Mr. Bernier, one had to factor this by 30 percent to account for the lower turnover of the projects Healthy Additions would carry as compared to those at Cronig's Market. Thirty percent of 57.6 customers amounted to 17.3 "new" customers daily that would not be pass-by customers or customers already shopping at Cronig's that day. Mr. Israel pointed out that in fact that number had to be doubled because each new customer would account for two trips, one in and one out. So there would be 34.6 additional vehicle trips (17.3 in, 17.3 out) per day, he said. Mr. Bernier agreed.

Mr. Bernier turned to the analysis done by Commission Transportation Planner David Wessling. [See the meeting file for a copy of Mr. Wessling's Staff Notes, titled "To: File; From: David Wessling; Date: December 18, 2002; Subject: Colonial Drive Real Estate Corp. (DRI #444-1).] Mr. Bernier referred to a study done by MS Transportation Systems for a gas station proposed across State Road and explained that he has used the data contained therein for State Road flow and turn rates.

Using the *Highway Capacity Manual* for 2000, Mr. Bernier continued, and factoring in the 2,771 square feet of Healthy Additions sales floor, 18 to 20 new trips would be

expected during the peak hour. Using the same manual, the *change* in approach delays would be as follows: Cronig's entering eastbound, an increase from 35.2 seconds to 35.6 seconds; Cronig's exit eastbound, an increase from 100.2 seconds to 111.2 seconds; and Colonial Drive exit eastbound, an increase from 34.5 to 62.4 seconds.

Mr. Bernier stressed that these numbers were conservative, since the manual's standards applied to the supermarket business and not to a store with Healthy Additions' product mix.

Moving on to the subject of mitigation, Mr. Bernier described the measures already taken: the establishment of Up-Island Cronig's; the installation of the Colonial Drive drainage system; the fact that Cronig's employees were year-round workers with medical and dental coverage; the opening of a Web site from which customers could purchase product without driving to the store; and the fact that Healthy Additions was the sort of business suggested as a good indicator in the McKnight survey on healthy communities.

Ms. Sibley asked Mr. Bernier where he had gotten his traffic figures from. Ms. Greene answered for him, stating that the study was done in the early 1990s. Mr. Israel commented that that study was not accurate.

Mr. Bernier then listed mitigation measures planned for the future: the painting of a STOP line and message on Colonial Drive; the painting of bi-directional arrows in the parking lot; the establishment of a VTA stop at Cronig's; the continued availability of that year-round employment (a piece of the affordable-housing picture, he said); an energy-consumption audit and \$20,000 worth of solar panels; eventually, a new entrance for the grocery store, with a carport drop-off area for handicapped people; and an offer to help fund a study on creating a parallel road off State Road that would connect to the Edgartown-Vineyard Haven Road.

Ms. Ottens-Sargent requested that Mr. Bernier supply a definite amount that he would be willing to contribute for the feasibility study on the parallel road. Mr. Israel spoke of the work of the State Road Corridor Task Force and suggested that Mr. Bernier might wish to speak with Mr. Veno, the MVC Staff member attached to it.

For the record, Mr. Bernier then stated, "I want to participate in funding a study ... I'll chip in a couple of thousand dollars ... I offer two thousand dollars to assist the creation of that study." He added that he would need some sort of invoice for that contribution.

Staff Reports.

DRI Coordinator Jennifer Rand referred to her Staff Report, which contained a list of outstanding items. The affordable housing contribution the Applicant had offered, she noted, exceeded the amount recommended in the Commission's Affordable Housing Policy.

Water Resources Planner William M. Wilcox related that he had looked at the runoff issue alluded to earlier, particularly on Colonial Drive. A portion of the Cronig's Market site did pitch down, he said, with the runoff moving toward Colonial Drive. He added that Colonial Drive itself pitched downward from State Road and that likewise the Island Electronics complex pitched downward towards Colonial Drive.

Mr. Wilcox continued that when he had checked the catch basins himself in December, he had discovered leaves clogging them. Upon checking them earlier that day, though, he had found them to be cleaned out, he reported. There was "a little water" in one, he said, but the system appeared to be "adequate."

Ms. Greene inquired if Mr. Hoehn, the engineer, had anything to say with regard to the drainage system. Mr. Hoehn, who had the drainage plan with him, explained the construction of the three catch basins, which in turn drained into leaching basins. There were two leaching pits, he said, 10 feet in diameter and 12 feet deep. The X factor, as he called it, was the amount of runoff coming down from State Road. Each of the catch basins came "pretty damn close" to being able to handle a 25-year storm, he stressed.

What about the testimony about the puddle? asked Ms. Ottens-Sargent, referring to statement made by neighbors to the site, at a public discussion with this Commission on December 19, 2002. Mr. Hoehn related that the day after the December 19th discussion, he had checked the basin and had found them to be covered with leaves. "It has to be maintained," he emphasized.

Mr. Bernier testified that he had been asked to do mitigation for runoff on Colonial Drive at the time of the original Islander Building Application and that he had tried to be vigilant. There was a stretch in November, he noted, when he had had to clear leaves out of the basins about a dozen times. "But I don't believe I'm the caretaker of Colonial Drive," he declared.

Responding to another question from Ms. Ottens-Sargent, Mr. Bernier stated that the catch basins were within the 40-foot right of way.

Was the runoff generated by the Cronig's Market parking lot? Mr. Israel inquired of Mr. Wilcox. The Water Resources Planner answered that there were a large number of catch basins in the parking area. He described how the water ran into the catch basin located right at the corner of the exit onto Colonial Drive, and he stressed that the double set of pits was adequate to handle the runoff, if properly functioning.

Ms. Sibley related that she often walked in the area and that it seemed to her that a "substantial amount" of runoff came from State Road and up the hill.

Mr. Schweikert wondered if Colonial Drive was an improved road and whether the residents could put in another pit. They could, replied Mr. Bernier. Mr. Israel said that Tisbury DPW Chief Fred LaPiana would look into that possibility.

Transportation Planner David Wessling related that with regard to traffic issues, Mr. Bernier had presented "a correct point of view," and he characterized Mr. Bernier's summary of the issues as "good." The new business could be expected to generate "a slight increase in delay coming in and out from State Road and Colonial Drive," he said. There would be more of a problem, he noted, at the exit onto State Road, perhaps adding 10 more seconds to the delay. "A rather insignificant overall delay," stated Mr. Wessling.

Turning to the subject of what would happen if the Colonial Drive exit-entrance were closed off completely, Mr. Wessling testified that he had run the numbers on 20 new trips leaving the parking lot onto State Road generated at peak hour on a summertime Saturday (11 a.m. until noon). Under those conditions, one could expect a 20-second-longer delay, he said. During peak hour on a summertime Friday afternoon, those additional 20 trips would produce an additional 70-second delay, for a total of a 109-second delay exiting onto State Road.

If the Colonial Drive exit-entrance were closed, wondered Mr. Israel, what would happen to the delay time for Colonial Drive residents exiting onto State Road? There would be an improvement, responded Mr. Wessling. And what would be the impact on State Road itself if the Colonial Drive exit-entrance were closed? asked Mr. Israel. Mr. Wessling replied that it would not be that bad in terms of delay and that the rate of flow on State Road would be "about the same."

Responding to a question from Ms. Brown, Mr. Wessling related that with the closing, one could expect 22 fewer trips at peak hour on Colonial Drive, so the exit onto State Road from Colonial Drive would go from a Level of Service of F to Category E (below 50 seconds' delay). Currently, he said, turning out of Colonial Drive onto State Road took on average more than 60 seconds.

Mr. Schweikert wanted to know what Mr. Wessling thought of Mr. Bernier's numbers with regard to new trips generated by the Healthy Additions business. We disagree on the numbers, replied Mr. Wessling, but we both agree that the impact is light.

More Questions and Comments from Commission Members.

Ms. Ottens-Sargent asked if Mr. Bernier would consider installing solar panels when he renovated Cronig's Market in the future. (This was in reference to an offer he had made in a Land Use Planning Committee meeting in late 2002.) "Sure, why not?" said Mr. Bernier.

Answering a question from Ms. Sibley, Mr. Bernier explained that when the planned "facelift" to Cronig's Market was done in the fall, all the planters would have to be dug up and the irrigation system redone. "It's a big deal," he said.

Ms. Brown confirmed with Mr. Bernier that he would be returning to the Commission before he proceeded with the "facelift." Ms. Sibley inquired if Mr. Bernier was comfortable with the Commission's making that return a Condition of Approval for the project before them. "Yes," answered Mr. Bernier, "and when I return in the fall, I may have answers for you about the handicapped parking."

"We're going down a pike that we shouldn't be," remarked Ms. Greene, adding that the return to the MVC did not have to be conditioned into the Approval since it would automatically trigger a DRI Checklist item.

Ms. Sibley countered that the Applicant had put these issues on the table as mitigation. "I'm not convinced that the Applicant is fully in compliance with the original landscape thing," she said. There was a question, for instance, about whether all the trees that Mr. Bernier was supposed to have planted had in fact been planted.

Ms. Sibley also had concerns about whether the switch grass along Colonial Drive could be trimmed to improve the sightlines for those exiting.

In response, Mr. Bernier offered to remove the switch grass. Ms. Sibley then suggested that some of the plantings, like the grasses, should be replaced with shade trees with a high canopy.

Ms. Ottens-Sargent wanted to know if Mr. Bernier was still considering installing a carport in front of Cronig's Market so that the elderly and handicapped customers could be dropped off there in inclement weather. (This had been part of the December 2002 Application, DRI No. 444-1.) Mr. Bernier replied that he had changed that because he was not sure if it would be workable.

Ms. Brown asked for testimony from Town Boards; there was none.

Testimony from Members of the Public in Favor of the Proposal.

Constance Mesmer related that she had shopped at Cronig's Market for 16 years and that it seemed to her that the products that could be offered at Healthy Additions would be "a good thing." She emphasized that Mr. Bernier made many charitable donations of food to various Island agencies. She concluded by stating that she would be eager to be able to shop for food, supplements and a video rental all in one trip.

Testimony from Members of the Public in Opposition to the Proposal.

Dan Mayhew, a Colonial Drive resident, said that he wanted Mr. Wessling to clarify a few of his point with regard to the traffic analysis. Also, he stressed, the speaker before him should have been identified as a relative of Mr. Bernier.

Other concerns Mr. Mayhew had were:

That Mr. Bernier was no longer proposing the speed bumps that had been mentioned in December;

That he, Mr. Mayhew, did not care about any affordable housing donation if Colonial Drive was unsafe for his children;

That most of the people who turned right onto Colonial Drive had grocery bags in their cars;

That in December the Applicant had testified that all that would be delivered to Healthy Additions would be a bunch of pill bottles and that the new product list was quite an expansion of Mr. Bernier's earlier list;

That he and his neighbors had photographs of the puddles on Colonial Drive as well as photographs of the cars queuing up, waiting to exit onto State Road;

That the Colonial Drive exit needed a Stop sign;

That vegetation was blocking the sightlines for cars coming up Colonial Drive;

That even though this was Mr. Bernier's property, what he did with it affected the people who lived nearby;

That the Commission had turned down gas stations in the same area because of the traffic and that the new project would be right across the street;

That Healthy Additions could turn out to be a great place or it could turn out to be the next Blockbuster Video store in 10 years; and

That Ms. Cournoyer, who had sold the property to the Cronigs, could not have imagined what would eventually be there.

Charlie Cournoyer, another abutter, testified that he had lived in the area for a long time, from back when there had been a mini-golf operation on the corner of State Road and Colonial Drive. "The road wasn't meant for that use," he remarked, adding that there were lots of grandfathered rights but that that did not make it the right thing to do. Years before, he said, when the mini-golf facility was there, the water did not puddle on Colonial Drive the way it did now.

Mr. Cournoyer continued, "He ought to be responsible for control of the traffic that his business is generating." He also wanted to know how Mr. Bernier had come up with his traffic numbers. In his own experience, Mr. Cournoyer said, he had to wait three to four minutes to exit from Colonial Drive onto State Road. He also mentioned that he had seen tractor-trailers using Colonial Drive to enter the Cronig's parking lot; the road was not wide enough for that, he said, and it probably did not meet State standards.

Ms. Sibley asked Mr. Cournoyer if he was talking about Colonial Drive. Yes, he replied, adding that when Mr. Bernier had established the Colonial Drive access, he should have notified the State. "I worked for Mass Highway for 26 years," he explained.

Mr. Mayhew, who had spoken earlier, said that a tractor-trailer had jackknifed on Colonial Drive. "That was not a Cronig's truck," declared **Ms. Mesmer**.

Maryann Cournoyer, another Colonial Drive resident, urged Mr. Bernier not to put in a carport, since the Lift vans would not fit under it. Also, the diagonal parking in the lot currently was good for the Lift vans, which were 20 feet-plus long.

Ms. Cournoyer related that she had lived on Colonial Drive for 30 years. She then listed all the businesses nearby whose customers exited onto that road. She conceded that it was not Mr. Bernier's fault that Cronig's customers sometimes failed to stop when exiting onto Colonial Drive. She expressed concern that the end of Colonial Drive became a three-way road at its juncture with State Road. "All I know is, I can't get in," she said.

Ms. Cournoyer wondered if it should be required that Colonial Drive be a 40-foot right of way if all these cars were going to be using it. It would get worse, she stressed, if U.P.S. tractor-trailers started using it. "The traffic on Colonial Drive is insane," she said.

Ms. Cournoyer also referred to "Colonial Lake" and pointed out that the puddling had not occurred when the mini-golf business had been there. She spoke also of the increased traffic that the new business would generate.

Fred Matta testified that he had lived on Colonial Drive for 10 years. He complained about the people who cut across the Cronig's lot and the tractor trailers whose drivers could not see cars coming down Colonial Drive because of the vegetation. There had been a Stop sign there once, he said, but it had disappeared.

Mr. Matta suggested that Mr. Bernier plant "real high trees only" and that something be done so that the end of Colonial Drive at State Road did not become a three-way road.

Tim Anthony of Colonial Drive testified that his main concern was that the Colonial Drive exit-entrance be shut down. "If you approve this, I want you to condition it to death," he declared. Mr. Bernier had, in fact, consulted with him about the lighting, he said, but he was still afraid that in the future the Healthy Additions building could become, say, a pharmacy or some other traffic-generating business.

Mr. Anthony spoke as well of the Stop sign that had disappeared and of the fact that there was still another parking lot behind the Islander Building, which no one had mentioned. He also wondered what the parking requirements were for a business like Healthy Additions and expressed concern about the new list of product categories that Mr. Bernier had presented that evening.

Emphasizing that there were 23 houses and an apartment building near Cronig's, Mr. Anthony pointed out that Colonial Drive was only 18 feet wide and that 7 feet 3 inches of his property was used as Colonial Drive. Referring to the traffic numbers that Mr. Bernier had presented, Mr. Anthony remarked, "Figures really don't mean what's there." Also, he said, people parked up and down Colonial Drive when no places were left in the parking lot.

Mr. Anthony spoke also about: the rodent problem caused by Cronig's; his 84-year-old legally blind mother-in-law; the trucks that blocked Colonial Drive; the fact that Mr. Bernier was not using the type of lighting conditioned by the Commission in its earlier Decision; and that he did not care if the cars would back up into Mr. Bernier's lot if the Colonial Drive access was closed.

Admitting that there was "some runoff" from his own property, Mr. Anthony said that still, he did not see the water being sucked up in the Cronig's lot during heavy downpours.

Sara Ahren, owner of the SuperNatural Health Food Store, stated that she just needed to say for the record that her store was her livelihood.

Meredith Dillon, manager of the SuperNatural Health Food Store, related that she lived on Skiff Avenue, which was very dangerous for children; so she understood the concerns of the Colonial Drive residents. She described her own issue with the project this way: "Thank you, Mr. Bernier, for your contribution to affordable housing. If I'm unemployed, it doesn't help me."

Justin Ahren, who identified himself as Ms. Ahren's husband, recalled the battle that had ensued when a Stop & Shop had been proposed down the road in the early 1990s. It

was been argued, he said, that the big chain stores would put locally based store out of business. In much the same way, he said, Mr. Bernier's purchasing power could put his wife's store out of business. As a traditional grocery store, he went on, Cronig's could not carry the specialty items that Healthy Additions would be able to. "He could undercut us," Mr. Ahren said. "Being just down the street presents a conundrum."

As for Ms. Mesmer's comment about one-stop shopping, Mr. Ahren remarked that he did not see that as a good thing.

Mr. Cournoyer, who had spoken earlier, wanted to know if Mr. Bernier had the covenant stating that he had rights to half of Colonial Drive.

Mr. Mayhew, who had spoken earlier, stated that the issue of the safety of local children was more important than the issue of cars queuing up in the Cronig's parking lot.

Mr. Anthony, who had spoken earlier, noted that the Islander Building had started out as a catalogue store, then had become an Internet business but now looked as if it was set to become "a junior Wal-mart."

Responding to a question from Ms. Brown, DRI Coordinator Rand stated that Mr. Bernier's lot met the parking requirements of the Town of Tisbury.

Mr. Cournoyer stated that the two granite pillars on State Road were illegal.

More Questions and Comments from Commission Members.

Mr. Israel wanted to get an estimate of how many U.P.S. trucks would be making deliveries to Healthy Additions. He also wanted to know if the Applicant would seriously consider closing off the Colonial Drive access from the Cronig's parking lot as well as the access from the second parking lot (behind the Islander Building).

Mr. Bernier responded that some of the trailer trucks coming down Colonial Drive had nothing to do with Cronig's. He also explained why it made sense that trucks making deliveries to Cronig's enter off State Road in front of the market and exit via Colonial Drive.

Mr. Bernier also stated that he had deeded rights to use Colonial Drive; that the alternative would make the parking lot worse; that there are lots of commercial businesses farther down Colonial Drive that bring in trucks; that there was a drainage problem before he came, and that he has spent \$50,000-60,000; that what used to take 2-3 days to drain now takes about an hour; that only a small area of his property drains onto Colonial Drive.

Ms. Ottens-Sargent asked if Cronig's used to use Colonial Drive; if there are proportionally more cars or trucks.

Mr. Israel noted that the product list is very broad; he questioned whether it could be clarified to better gauge the traffic impact.

Ms. Sibley asked if he could qualify the product categories.

Mr. Wessling responded that he had already used "general retail".

Ms. Sibley countered that if a unique product is offered people will make it a destination. She asked if he could make the lights operate by motion sensor.

Mr. Bernier responded that he will paint a line and put up a Stop sign. If there is still a problem, he will install a speed bump.

Mr. Israel asked if he would agree that if the use changes from natural products to another retail use, he will come back.

Mr. Bernier stated that the store will have 4-6 employees, 2-4 at a time.

Ms. Sibley asked if accidents are reported to the Police.

Mr. Anthony suggested that the lighting plan that had been given to Cronig's eight years ago by the MVC should be respected; the old conditions should be kept.

Ms. Ahren asked if there will be any food products.

Ms. Moore asked if there have been accidents.

Applicant summary.

Mr. Bernier presented his final summary. He stated that the rodent problem is not because of his dumpster; but rather that it is because the landfill was closed. The light pole in question was there 17 years ago as security lighting; that wasn't changed with the addition to Cronig's, but it now only goes on when the parking lot lights are turned off overnight. The other pole was there for 25 years. He won't put the one on the back until he has talked to the neighbors. Food will stay at Cronig's. The Schwartz lot is as it was when he bought it; the line of bushes marks the property line. If he were to close the exit to Colonial Drive, all would exit onto State Road, creating a traffic problem there, where there are also cars entering and exiting Shirley's, across the street. He added that he has rights to Colonial Drive, rights that the Cronig brothers purchased 25-28 years ago, and that was when trucks started to bring food in that way. He responded to the competition issues by relating a brief history of natural food stores in Tisbury, beginning with

Michael Campbell's natural food store on Beach Road in 1976. He stated that he is not opening another natural food store, but going off into non-food items. He would like to work with Ms. Williams.

Ms. Greene asked why the proposed products could not be sold in Cronig's.

Mr. Bernier responded that the vendors will not sell to a grocery store.

The Public Hearing was closed at 10:45 P.M.

Budget for fiscal year 2004.

The proposed budget for fiscal year 2004 was presented by Executive Director Mark London. The proposed budget includes \$883,025, of which \$281,025 should be covered by grants and contracts, leaving \$602,024 for the towns. Mr. Israel would like someone to present the budget at Tisbury's Town Meeting; somewhere along the line, hard decisions must be made.

It was moved, seconded and voted to approve the proposed budget for fiscal year 2004.

Suspension of 11:00 P.M. limit.

At 10:55, suspension of the 11:00 P.M. rule was moved, seconded and approved.

Tisbury Fuel Services Written Decision (DRI No. 552).

It was moved and seconded to approve the Tisbury Fuel Services written decision. Approval was voted by roll call vote, with affirmative votes by Mr. Athearn, Ms. Brown, Mr. Israel, Mr. Schweikert, Ms. Sibley and Mr. Toole, and abstentions by Ms. Greene, Ms. Ottens-Sargent, Ms. Moore, Ms. Newman and Mr. Sederholm.

Anderson Irrevocable Trust Written Decision (DRI No. 504-1).

It was moved and seconded to approve the Anderson Irrevocable Trust written decision. A roll call vote was taken, with affirmative votes by Mr. Athearn, Ms. Brown, Mr. Israel, Mr. Schweikert, Ms. Sibley and Mr. Toole, and abstentions by Ms. Moore, Ms. Newman and Mr. Sederholm.

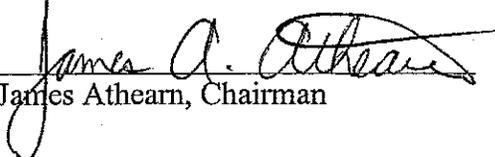
Other Business.

There was some discussion of writing into future decisions a requirement to pay the affordable housing offering up front. Ms. Sibley suggested establishing a requirement to ensure that the approved project is what is built. She noted that in Fairwinds there is no mechanism to send a final changed plan back to the town. She suggested that we should

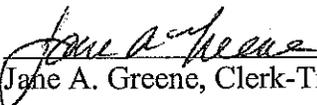
work on that; possibly having two sets of plans to stamp one "approved" and send that back to the town.

Adjournment.

It was moved, seconded and voted to adjourn. The Regular Meeting was adjourned at 11:30 P.M.


James Athearn, Chairman

3/13/03
Date


Jane A. Greene, Clerk-Treasurer

3/13/03
Date

PRESENT: J. Athearn, C. Brown, J. Greene, T. Israel, D. Moore, K. Newman, A. Schweikert, D. Sederholm, L. Sibley, R. Toole and M. Ottens-Sargent.

ABSENT: J. Best, P. Strauss, K. Warner and A. Woodruff.

(These minutes were prepared by Staff Secretary Pia Webster and by Jo-Ann Taylor using notes and a tape recording of the Regular Meeting.)