



# CAPE COD COMMISSION

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DATE: June 17, 1999

TO: Charles G. Bilezikian, Trustee  
Whites Path Real Estate Trust IV  
261 White's Path  
South Yarmouth, MA 02664

FROM: Cape Cod Commission

RE: Development of Regional Impact Exemption  
Cape Cod Commission Act, Section 12(k)

PROJECT: Christmas Tree Shops Headquarters Change of Use

PROJECT #: EX99011

APPLICANT: Charles G. Bilezikian, Trustee  
Whites Path Real Estate Trust IV

CERTIFICATE #: 152244  
LOT/PLAN #: Lot 228, Plan 31209-H

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission) hereby grants the application of Mr. Charles G. Bilezikian, Trustee of Whites Path Real Estate Trust IV, for a Development of Regional Impact (DRI) Exemption pursuant to Section 12(k) of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for a proposed change of use to the Christmas Tree Shops headquarters in South Yarmouth, MA. The decision is rendered pursuant to a vote of the Commission on June 17, 1999.

### PROJECT DESCRIPTION

The applicant proposes to convert 10,325 s.f. of 1st floor warehouse space to office use for the Christmas Tree Shops headquarters located at 261 White's Path in South Yarmouth, MA. The corporate headquarters has been located at the project site since 1982. The existing building footprint is 41,401 s.f. There are two levels inside the existing building comprising 22,800 s.f. of office space and 29,000 s.f. of warehouse space. The new office space will house upper management, buying, accounting, human resources, information systems and support staff. It is anticipated that the new facility will house no more than 45 new employees for a total of 130

Christmas Tree Shops Headquarters - #EX99011  
DRI Exemption Decision - June 17, 1999



employees. A total of 156 existing parking spaces are located on site. The site is served by various utilities including an on-site advanced septic system that incorporates denitrification.

In 1996, the site was re-zoned from industrial to B-3 for business use. The site is bordered by White's Path to the north and the former Penn Central Railroad to the south. Self-storage and other light industrial uses are located to the east and west of the site. Route 6 is located parallel to and directly north of White's Path. Residential land use is located south of the site, separated by the railroad right-of-way.

### PROCEDURAL HISTORY

The proposed project was referred as a Development of Regional Impact by James Brandolini, town of Yarmouth Building Commissioner on April 29, 1999. The DRI Exemption application was determined to be complete on May 14, 1999. A duly authorized subcommittee of the Commission held a public hearing to consider the DRI Exemption request on June 7, 1999 at the Yarmouth Town Hall. The public hearing was also closed on this date. On June 7, 1999 the subcommittee voted unanimously to recommend approval of the DRI Exemption request to the full Commission. On June 17, 1999 the full Commission voted unanimously to approve the DRI Exemption.

### MATERIALS SUBMITTED FOR THE RECORD

#### From the applicant:

- Development of Regional Impact Exemption Report received May 10, 1999
- Development of Regional Impact Report received May 10, 1999
- Certification of receipt of DRI application by municipal officials received May 17, 1999
- letter with attachments from Coler & Colantonio, Inc. re: additional accident data received June 7, 1999
- letter from Coler & Colantonio, Inc. re: supplemental text for DRI Exemption application received June 7, 1999
- fax transmittal from Rick DeMello, Yarmouth Engineering Dept. to Mike Regan, Coler & Colantonio re: Station Avenue/White's Path concept plan received June 7, 1999
- letter from Coler & Colantonio re: follow up accident data received June 4, 1999

#### From Cape Cod Commission:

- Cape Cod Commission staff report dated June 2, 1999
- subcommittee notices dated May 17, and May 25, 1999
- letter to applicant re: complete application dated May 14, 1999

#### From public officials:

- Site Plan Review comment sheet dated May 4, 1999
- DRI referral form received April 29, 1999
- Site Plan Review application dated April 23, 1999
- letter opposed to DRI Exemption request from Herbert Schnitzer dated June 1, 1999
- letter in favor of DRI Exemption from Yarmouth Board of Selectmen received May 27, 1999

The application and notice of the public hearing relative thereto, the Commission's staff notes, exhibits and correspondence, the transcript and minutes of the hearing and all written submissions received in the course of our proceedings are incorporated into the record by reference.

### TESTIMONY

At the June 7, 1999 public hearing, attorney Larry Murphy discussed the need for Christmas Tree Shops to provide additional office space for their corporate headquarters. He described the proposed project, which consisted of interior renovations only and believed that the project warranted a DRI Exemption. He described the applicant's contributions to offset nitrogen loading and to future transportation improvements in the town of Yarmouth. Ken Caputo, project engineer with Coler & Colantonio, described the traffic study prepared for the DRI Exemption request and submitted additional information at the hearing concerning accident locations on White's Path requested by staff. John Chessia, also with Coler & Colantonio, described recent upgrades to the existing septic system and discussed nitrogen loading calculations for the proposed project.

Planner Sharon Rooney provided an overview of the DRI Exemption process and Regional Policy Plan standards. Hydrologist Gabrielle Belfit noted that increased nitrogen loading as a result of the project is roughly equivalent to the flow from a single family house. She noted that with septic system upgrades and water conservation measures already in place, there was nothing more that could be done on-site to reduce nitrogen loading. She noted that the applicant had offered to contribute funds to the Barnstable County Community Septic Management Program for the purpose of installing two denitrification systems for residential homes in need of upgrades within the same watershed. She noted that this contribution would more than offset nitrogen loading impacts from the proposed project. Traffic engineer Glenn Cannon stated that he agreed with the anticipated trip generation for the proposed project and discussed additional accident data submitted by the applicant.

Comments from the public included Francis Gitelow, who supported the DRI Exemption request. Richard Gegenworth expressed concern for excessive speeds on White's Path and additional nitrogen loading if a different use occupies the building in the future. Peter Bryanton, Economic Development coordinator for the town of Yarmouth, described contributions made by the applicant to nearby intersection improvements in the 1980's and discussed the town's current plans to make additional improvements to Station Avenue. Charles Hart, Chairman of the Yarmouth Board of Selectmen stated that the majority of the Board of Selectmen support the DRI Exemption request and noted that the Town is working with a committee to reconstruct Station Avenue. Glen Van Wickle, President of the Yarmouth Chamber of Commerce, supported the DRI Exemption request and noted that recent rezoning of White's Path supports the proposed change of use. Richard Nietz, Chairman of the Cape Cod Community Development Corporation, supported the exemption request and the employment opportunities offered by the project.

### JURISDICTION

The proposed project qualifies as a Development of Regional Impact (DRI) under Section 3(e) of the Cape Cod Commission DRI Enabling Regulations as "use changes which have a gross floor area greater than 10,000 s.f." The existing warehouse contains a total of 51,800 s.f., just over the maximum (50,000 s.f.) allowed to proceed through a change of use review by the Regulatory

Committee under Section 3(f) of the DRI Enabling Regulations.

### FINDINGS

The Commission has considered the application of Mr. Charles G. Bilezikian, Trustee of Whites Path Real Estate Trust IV for the proposed Christmas Tree Shops headquarters change of use in South Yarmouth, MA, and based on consideration of such application, the information presented at the public hearing and submitted for the record, the Commission makes the following findings subject to Section 12(k) of the Act:

1. The Christmas Tree Shops headquarters located on White's Path in South Yarmouth proposes to convert 10,325 s.f. of 1st floor warehouse space to office use. The new office space will house upper management, buying, human resources, accounting, information systems and support staff for a maximum of 45 new employees. No exterior changes to the existing building or site are proposed, with the exception of additional fenestration and removal of warehouse loading doors.
2. The existing site is developed, therefore a natural resources inventory was not required. Under the Regional Policy Plan (RPP), the applicant is required to maintain the existing amount of open space on the site. Existing open space consists of landscaped buffers and parking lot landscaping. The Christmas Tree Shops completed a number of these landscaping improvements in 1996. No changes to the site are proposed as a result of the change of use.
3. The majority of the parking is located in the rear of the site. An existing 70' wide landscaped buffer provides adequate screening of the 20 parking spaces in front of the site. Signage is limited in size. No exterior changes to the building or signage are proposed as a result of the change of use.
4. Wastewater from the existing building is treated with an on-site advanced septic system that incorporates denitrification. Existing nitrogen loading calculations were provided using documented water use instead of Title V wastewater flows. The calculations indicated that the current water use of 413 gallons per day (gpd) results in a 2.4 ppm nitrogen concentration. The proposed change of use will produce an additional 227 gallons per day and result in a 2.9 ppm nitrogen concentration. The increase of 227 gpd is roughly equivalent to the flow from a three-bedroom single family house.
5. The Christmas Tree Shops headquarters is located within several Water Resource Classification Areas under the RPP. It is within the recharge area to several Yarmouth Public supply wells and the Dinah's Pond sub-watershed of the Upper Bass River, which is an identified nitrogen-sensitive embayment. This area has been identified by the Cape Cod Commission Coastal Embayment Project (September, 1998) as exceeding the acceptable nitrogen loading level for the sub-watershed. The RPP requires that where existing development exceeds identified critical loading standards for a marine recharge area, development and redevelopment shall maintain or improve existing levels of nitrogen loading.
6. The applicant offset this nitrogen loading increase by providing \$16,000 in funding to the Barnstable County Health Department Community Septic Management Program for the purpose of installing two denitrification systems for residential homes in need of upgrades within the same watershed. The funding for the upgrades will more than offset the nitrogen loading impacts from

the proposed project and will improve existing levels of nitrogen loading.

7. The existing Christmas Tree Shops headquarters driveway, located on the south side of White's Path, is proposed to continue to provide access to the site. The existing driveway will operate at better than LOS C under build conditions.

8. MPS 4.1.1.5 requires all DRI access/egress locations with public ways to meet Massachusetts Highway Department (MHD) and American Association of State Highway Transportation Officials (AASHTO) standards for safe stopping sight distance. As reported in the Traffic Impact Assessment Report and field observations, the stopping sight distances are adequate based on MHD and AASHTO standards.

9. The trip generation for this project is based on a single tenant office with 62 employees. The estimated traffic generation volumes are 30 vehicle trips during the highest peak hour (the AM peak hour) and 206 daily vehicle trips. Minimum Performance Standard (MPS) 4.1.1.3 states that if a Development of Regional Impact meets the 20% trip reduction goal, then 20% of the site generated traffic can be subtracted from the anticipated traffic impact locations. The applicant has chosen to present a conservative estimate of project traffic by not reducing site generated traffic in accordance with MPS 4.1.1.3.

10. The RPP threshold for traffic impacts is 25 or more peak hour trips generated by the development at all regional intersections and links. The trip distribution of site-generated traffic is 75 percent west on White's Path and 25 percent east on White's Path. White's Path is a regional roadway as defined by criteria outlined in the RPP. Distributing the 30 morning peak hour trips over the roadway network indicates that the intersection of White's Path and Station Avenue would be the most heavily impacted. It is anticipated that the development would generate 22 new vehicle trips during the morning peak hour at this intersection. The 22 vehicle trips is below the threshold of 25 vehicle trips requiring analysis or mitigation.

11. MPS 4.1.1.7 states that regardless of size, a Development of Regional Impact shall not degrade public safety. As stated in the Traffic Impact Assessment Report, White's Path has experienced twelve accidents per year on average, which is more than double the industry standard of five accidents per year average for safety deficiencies. Upon further investigation, it was established that only one of these accidents occurred within the study area and that this accident was due to driver error. The majority of accidents occurred at the White's Path/Station Avenue intersection. The town of Yarmouth is currently planning to upgrade this intersection.

12. The applicant contributed \$3,000 to the Barnstable County Treasurer which will be a project benefit towards the planning, design or implementation of transportation improvements in the town of Yarmouth.

13. The Traffic Impact Assessment Report contains parking demand data which indicates that the existing facility has sufficient parking to accommodate the office expansion.

14. The Traffic Impact Assessment report states that the Christmas Tree Shops headquarters currently has a trip reduction plan in place which includes flexible work hours, ridesharing and a transportation coordinator. The applicant has committed to additional trip reduction measures including designating preferential parking spaces for employees that carpool and providing secure

bicycle storage areas for employees who wish to bicycle to work.

15. As proposed, the character and environmental effects of the project will prevent its having any significant impacts on the values and purposes protected by the Act outside of the municipality in which the development is located.

CONCLUSION

Based upon the findings above, the Cape Cod Commission hereby concludes:

As proposed, the location, character and environmental effects of the proposed change of use will prevent its having any significant impacts on the values and purposes protected by this act outside the municipality in which the development is located. This conclusion is supported by the findings listed above.

The Commission hereby grants Mr. Charles G. Bilezikian, Trustee of Whites Path Real Estate Trust IV a DRI Exemption from the terms and provisions of the Act, pursuant to Section 12(k) of the Act for a proposed change of use to the Christmas Tree Shops headquarters in South Yarmouth, MA.

Herbert Olsen  
Herbert Olsen, Chair

6/17/99  
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 17<sup>th</sup> day of June 1999

Katharine L. Peters  
Name, Notary Public

My commission expires:

