

BOS

3/13 (4)

TOWN OF ACTON

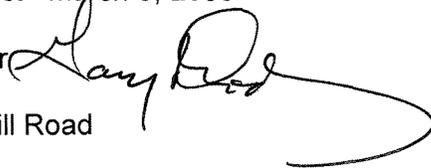
Building Department

INTERDEPARTMENTAL COMMUNICATION

FAXED
3/10/06

To: Board of Selectmen **Date:** March 8, 2006

From: Garry A. Rhodes, Building Commissioner



Subject: Class I License Application 50 Powdermill Road

I have reviewed the latest Acton Survey & Engineering letter dated March 7, 2006. He continues to argue that the Board of Selectmen issued a Class I License for 50 Powdermill Road even though the copy of the Class I License clearly states 56 Powdermill Road. He has offered no new information therefore I am recommending the license request be denied for the reasons stated in my February 8, 2006 IDC to the Board.

ACTON NATURAL RESOURCES DEPARTMENT

INTERDEPARTMENTAL COMMUNICATION

To: Don Johnson, Town Manager **Date:** March 10, 2006
From: Tom Tidman, Director 
Subject: 50-56 Powdermill Road

Don,

It is my opinion that a new filing for the proposed parking area in front of 50-56 Powdermill Road will not be necessary as stormwater will be handled as proposed in a 2002 filing before the Conservation Commission, DEP File No. 85-804.

However, if the plans significantly change, a new filing may be required. The Notice of Intent plan submitted to the Commission dated September 2002 indicated a (future landscape island) in front of the proposed one-story building to be reconstructed. The new plans before the Selectmen dated January 17, 2006 do not appear to indicate a landscape island as proposed. The parking area is paved and free of erosion, stormwater is directed to the storm drain system within the highway right-of-way, along with parking lot drainage entering the detention basin at the north east corner of the lot, (all as proposed in 2002).



TOWN MANAGER'S OFFICE

472 Main Street
Acton, MA 01720

978-264-9612
Fax 978-264-9630

FAX TRANSMISSION COVER SHEET

DATE: March 10, 2006

Please deliver attached to:

NAME : ***Mark Donohoe, PE***

FIRM :

FAX #

This message is being sent from:

NAME: Town of Acton, Christine

We are transmitting 2 ***pages, including this cover sheet.***

MESSAGE:

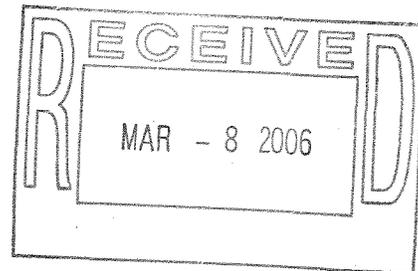
Mark, incase Garry did not send you his latest copy, attached please find his comments dated March 8th.

Acton Survey & Engineering, Inc..

P.O. Box 666, 97 Great Rd. #6 • Acton, MA • 01720

Phone: (978) 263-3666 • Fax: (978) 635-0218

Email: actonsurvey@verizon.net



March 7, 2006

Acton Board of Selectmen
472 Main Street
Acton, MA 01720

Re: 50 powder Mill Road
Autoplex Realty, LLC
5781,b 26

Dear Board Members:

During the initial hearing pertaining to our client's request to operate a car rental facility from the building at 50 Powder Mill Road a statement was made that their has never been a License for a motor vehicle sales, exchange, etc. at the subject property.

Please find attached a copy of such a License issued by the Board for this property on July 15, 2002 and the renewal of that License issued by the Board on January 1, 2006.

The need for a filing with the Conservation Commission was raised and our letter to the Commission is attached and we believe the Commission will substantiate our opinion that a filing with the Commission is not required.

The Acton Zoning Bylaw allows Vehicle Sale, Rental [3.5.23] as a matter of right in the Powder Mill District and as no alterations are proposed to the site, Site Plan Approval is not required.

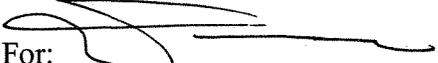
Parking Facilities are also allowed as a matter of right in the Powder Mill District under 3.5.22 of the Zoning Bylaw

As shown by the As-Built Notice of Intent Plan the existing two story building is located 45 to 50 feet from the road right of way and the prohibiting of the use of a 30 foot strip adjacent to the right of way for parking, or maneuvering for parking, would preclude parking in front of the existing and recently removed structure would inhibit the use of the property and present an undue hardship to our client.

In summary, it is our opinion that the use of the existing paved area as shown on our plan entitled "Display Parking Diagram for Acton Suzuki RAC, Inc." is reasonable and will

not result in environmental degradation, or unsafe conditions. It is our opinion that a "Class I" license should be granted for the property at 50-56 Powder Mill Road.

Very truly yours,
Mark T. Donohoe, PE


For:
Acton Survey & Engineering, Inc.

cc: Leo Bertolami
Acton Building Commissioner

Acton Survey & Engineering, Inc..
P.O. Box 666, 97 Great Rd. #6 • Acton, MA • 01720
Phone: (978) 263-3666 • Fax: (978) 635-0218
Email: actonsurvey@verizon.net

March 7, 2006

Acton Conservation Commission
472 Main Street
Acton, MA 01720

Re: 50-56 Powder Mill Road
DEP 85-715
5781,b26

Dear Commission Members:

Our client has applied for a permit to store cars for a rental office to be housed in the existing building at 50 Powder Mill Road, as shown on the enclosed plan. A copy of the as-built Notice of Intent Plan is also enclosed for your use.

The one story wood building was removed due to structural damage that occurred during its renovation and a wall and decorative metal fence was installed near its foundation wall for reasons of safety.

During the licensing hearing, before the Board of Selectmen, the need for a filing with the Commission and compliance with DEP's stormwater guidelines were raised as a concern.

As the cars will simply be parked on existing pavement, it is our opinion that the site will not be altered as defined by 310 CMR 10.04 and as all activities are to occur within the buffer zone the activities are not subject to Regulation under MGL c.130, s40 as stipulated by 310 CMR 10.02(2)(b).

The Acton Wetland Bylaw Section F3.4 also defines "Alter" in a manner that does not include the parking of cars and as the a resource area is not being removed, dredged, filled or altered a filing as required by Section F2 is not required.

It should be noted that the vehicles are not going to be washed or in any manner maintained at 50 Powder Mill Road. They are to be only parked there.

Compliance with DEP's Stormwater Management Guidelines is administered during the Notice of Intent process and is required when a new point discharge is created or when alterations are proposed in an area under the Commission's jurisdiction. As a Notice of

Intent is not to be filed and the existing discharge is to be utilized there is no mechanism to seek compliance. The Stormwater management system was approved by the Commission in 2002.

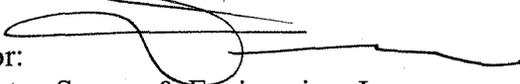
The site was observed by this writer and Mr. Tidman on March 6, 2006 and was found to be in erosion resistant condition.

In summary, as only the parking of vehicles in an existing area of pavement is proposed there are no alterations proposed within the areas subject to the Commission's jurisdiction and a filing under the Wetlands Protection Act and Chapter F are not required.

If the Commission should require additional information, or desire to meet with us please call.

Thank you for any consideration you may give this matter.

Very truly yours,
Mark T. Donohoe, PE


For:
Acton Survey & Engineering, Inc.

cc: Leo Bertolami
Acton Board of Selectmen
Acton Building Commissioner

HIGH STREET

DAM

ASSABET RIVER

FLOW

EXISTING BUILDING #50

FOUNDATION OF OLD BUILDING

CONCRETE WALL W/DECORATIVE FENCE

UP

145

144

143

142

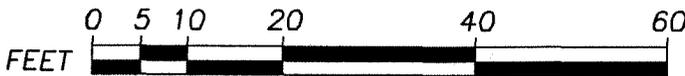
141

140

EXISTING EDGE PAVEMENT

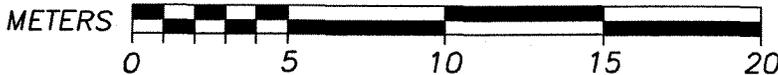
POWDER MILL ROAD (ROUTE 62)

SCALE: 1 INCH = 20 FEET



NOTE:

SITE IS WITHIN 100' WETLAND BUFFER AND 100' RIVERFRONT AREA.

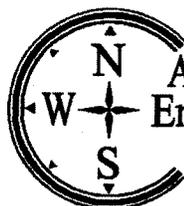
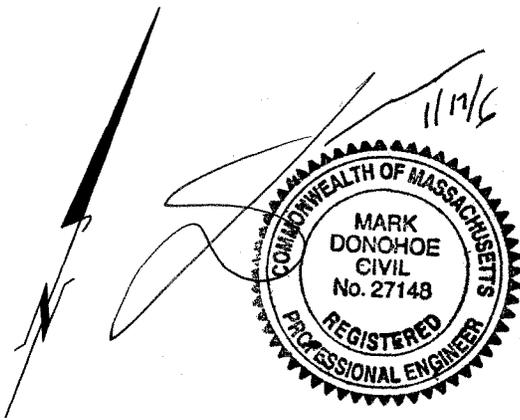


DISPLAY PARKING DIAGRAM FOR ACTON SUZUKI RAC

50 POWDER MILL ROAD
ACTON, MASSACHUSETTS

PREPARED FOR:
6 PROCTOR ST
SCALE: 1"=20'

AUTOPLEX REALTY, LLC
ACTON, MA 01720
DATE: JANUARY 17, 2006



Acton Survey & Engineering, Inc.

Since 1967

97 GREAT ROAD
P.O. BOX 666
ACTON, MA 01720
PH. (978) 263-3666
FAX (978) 635 0218

5781

THE COMMONWEALTH OF MASSACHUSETTS

Town OF Acton

APPLICATION FOR A LICENSE TO BUY, SELL, EXCHANGE OR ASSEMBLE SECOND HAND MOTOR VEHICLES OR PARTS THEREOF

I, the undersigned, duly authorized by the concern herein mentioned, hereby apply for a Class I class license, to Buy, Sell, Exchange or Assemble second hand motor vehicles or parts thereof, in accordance with the provisions of Chapter 140 of the General Laws.

1. What is the name of the concern? Acton Ford Rent A Car, Inc.

Business address of concern. No. 56 Powder Mill Road St., Acton, MA. 01720 City — Town.

2. Is the above concern an individual, co-partnership, an association or a corporation? Corporation

3. If an individual, state full name and residential address.

4. If a co-partnership, state full names and residential addresses of the persons composing it.

5. If an association or a corporation, state full names and residential addresses of the principal officers.

President Leo Bertolami

Secretary TBD

Treasurer Leo Bertolami

6. Are you engaged principally in the business of buying, selling or exchanging motor vehicles? yes

If so, is your principal business the sale of new motor vehicles? yes, including rental business

If your principal business the buying and selling of second hand motor vehicles? no

If your principal business that of a motor vehicle junk dealer? no

7. Give a complete description of all the premises to be used for the purpose of carrying on the business.
Property and building located at 56 Powder Mill Road, Acton, MA.
with 29 parking spaces. (SEE ATTACHED PLAN)

8. Are you a recognized agent of a motor vehicle manufacturer? *yes*
(Yes or No)
If so, state name of manufacturer *Ford Motor Company*

9. Have you a signed contract as required by Section 58, Class 1? *yes*
(Yes or No)

10. Have you ever applied for a license to deal in second hand motor vehicles or parts thereof? *yes*
(Yes or No)
If so, in what city — town *Acton/Hudson/Concord/Barnstable*
Did you receive a license? *yes* For what year? *1976 ongoing*
(Yes or No)

11. Has any license issued to you in Massachusetts or any other state to deal in motor vehicles or parts thereof ever been suspended or revoked? *no*
(Yes or No)

Sign your name in full. *Leo Bertolami*
(Duly authorized to represent the concern herein mentioned)
Leo Bertolami
Residence... *6 Proctor Street, Acton, MA.*

IMPORTANT

EVERY QUESTION MUST BE ANSWERED WITH FULL INFORMATION, AND FALSE STATEMENTS HEREIN MAY RESULT IN THE REJECTION OF YOUR APPLICATION OR THE SUBSEQUENT REVOCATION OF YOUR LICENSE IF ISSUED.

NOTE: If the applicant has not held a license in the year prior to this application, he must file a duplicate of the application with the registrar. (See Sec. 59)

APPLICANT WILL NOT FILL THE FOLLOWING BLANKS

Application after investigation (Approved or Disapproved)

License No. granted July 15 2002 Fee \$ 100 / yr

Signed Petr Antonov

Handwritten signature of Petr Antonov

CHAPTER 140 OF THE GENERAL LAWS, TER. ED., WITH AMENDMENTS THERETO (EXTRACT)

SECTION 57. No person, except one whose principal business is the manufacture and sale of new motor vehicles but who incidentally acquires and sells second hand vehicles, or a person whose principal business is financing the purchase of or insuring motor vehicles but who incidentally acquires and sells second hand vehicles, shall engage in the business of buying, selling, exchanging or assembling second hand motor vehicles or parts thereof without securing a license as provided in section fifty-nine. This section shall apply to any person engaged in the business of conducting auctions for the sale of motor vehicles.

SECTION 58. Licenses granted under the following section shall be classified as follows:

Class 1. Any person who is a recognized agent of a motor vehicle manufacturer or a seller of motor vehicles made by such manufacturer whose authority to sell the same is created by a written contract with such manufacturer or with some person authorized in writing by such manufacturer to enter into such contract, and whose principal business is the sale of new motor vehicles, the purchase and sale of second hand motor vehicles being incidental or secondary thereto, may be granted an agent's or a seller's license; provided, that with respect to second hand motor vehicles purchased for the purpose of sale or exchange and not taken in trade for new motor vehicles, such dealer shall be subject to all provisions of this chapter and of rules and regulations made in accordance therewith applicable to holders of licenses of class 2.

Class 2. Any person whose principal business is the buying or selling of second hand motor vehicles may be granted a used car dealer's license.

Class 3. Any person whose principal business is the buying of second hand motor vehicles for the purpose of remodeling, taking apart or rebuilding the same, or the buying or selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicle parts, may be granted a motor vehicle junk license.

SECTION 59. The police commissioner in Boston and the licensing authorities in other cities and towns may grant licenses under this section which shall expire on January first following the date of issue unless sooner revoked. The fees for the licenses shall be fixed by the licensing board or officer, but in no case shall exceed \$100. dollars. Application for license shall be made in such form as shall be approved by the registrar of motor vehicles, in sections fifty-nine to sixty-six, inclusive, called the registrar, and if the applicant has not held a license in the year prior to such application, such application shall be made in duplicate, which duplicate shall be filed with the registrar. No such license shall be granted unless the licensing board or officer is satisfied from an investigation of the facts stated in the application and any other information which they may require of the applicant, that he is a proper person to engage in the business specified in section fifty-eight in the classifications for which he has applied, that said business is or will be his principal business, and that he has available a place of business suitable for the purpose. The license shall specify all the premises to be occupied by the licensee for the purpose of carrying on the licensed business. Permits for a change of situation of the licensed premises or for addition thereto may be granted at any time by the licensing board or officer in writing, a copy of which shall be attached to the license. Cities and towns by ordinance or by-law may regulate the situation of the premises of licensees within class 3 as defined in section fifty-eight, and all licenses and permits issued hereunder to persons within said class 3 shall be subject to the provisions of ordinances and by-laws which are hereby authorized to be made. No license or permit shall be issued hereunder to a person within said class 3 until after a hearing, of which seven days' notice shall have been given to the owners of property abutting on the premises where such license or permit is proposed to be exercised. All licenses granted under this section shall be revoked by the licensing board or officer if it appears, after hearing, that the licensee is not complying with sections fifty-seven to sixty-nine, inclusive, or the rules and regulations made thereunder; and no new license shall be granted to such person thereafter, nor to any person for use on the same premises, without the approval of the registrar. The earnings may be dispensed with if the registrar notifies the licensing board or officer that a licensee is not so complying. Any person aggrieved by any action of the licensing board or officer refusing to grant, or revoking a license for any cause may, within ten days after such action, appeal herefrom to any justice of the superior court in the county in which the premises sought to be occupied under the license or permit applied for are located. The justice shall, after such notice to the parties as he deems reasonable, give a summary hearing on such appeal, and shall have jurisdiction in equity to review all questions of fact or law and may affirm or reverse the decision of the board or officer and may make an appropriate decree. The decision of the justice shall be final.

COPY

NUMBER

FEE

11

\$100.00

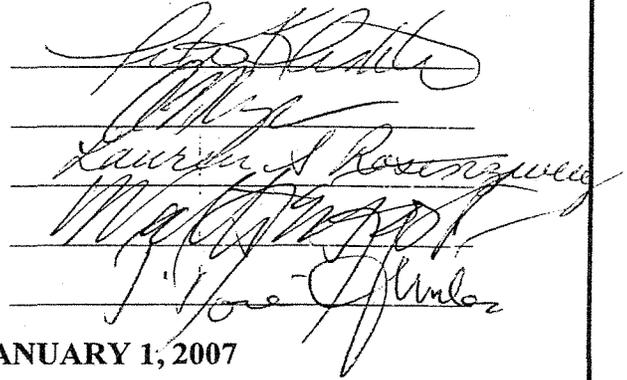
THE COMMONWEALTH OF MASSACHUSETTS

Town of Acton

**AGENT'S OR SELLER'S LICENSE – CLASS I.
FOR THE SALE OF SECOND-HAND MOTOR VEHICLES**

In accordance with the provisions of Chapter 140 of the General Laws with amendments thereto **Acton Ford Rent-A-Car, Inc.** whose principal business is the sale of new motor vehicles as a recognized agent of the **Ford** (or who has a signed contract as required by Section 58, Class 1), is hereby licensed to purchase and sell, as incidental or secondary thereto, second-hand motor vehicles at No. **56 Powdermill Road.** on premises described as follows: Property and building located at 56 Powdermill Road with 29 parking spaces (See plan attached to application)

December 12, 2005



THIS LICENSE EXPIRES JANUARY 1, 2007

THIS LICENSE MUST BE POSTED IN A CONSPICUOUS PLACE UPON THE PREMISES

(OVER)