



5/20 (3)

**TOWN OF ACTON**  
472 Main Street  
Acton, Massachusetts, 01720  
Telephone (978) 929-6611  
Fax (978) 929-6350

**Janet K. Adachi**  
Chairperson, Board of Selectmen

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April 16, 2013

Acton Beacon Legal Ad Division

Below please find a copy of a legal advertisement to appear in the Acton Beacon on May 2 and May 9, 2013.

Please send the bill to:

James & Tina Flaherty  
205 Sugar Road  
Bolton, MA 01760  
978-835-8434

Please send proof copy and tear sheet to:

Town Manager's Office  
472 Main Street  
Acton, MA 01720

Very truly yours,

Christine Joyce  
Town Manager's Office

Selectman Sonner

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**LEGAL NOTICE  
TOWN OF ACTON  
NOTICE OF HEARING**

The Acton Board of Selectmen will hold a public hearing on May 20, 2013 at 7:20 PM in the Francis Faulkner Hearing Room in Town Hall, 472 Main Street, Acton on the application of James and Tina Flaherty for a Use Special Permit #04/10/13-442, required under Sections 10.3 and 3.5.5 (10) of the Acton Zoning Bylaw, for a 24 Hour Anytime Fitness Center at 100 Powder Mill Road, Acton, MA 01720. The application and accompanying plans can be inspected at Town Hall during normal business hours.

Misc. L Drive

## Christine Joyce

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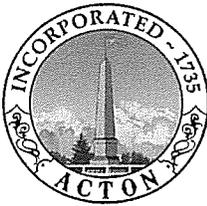
**From:** Scott Mutch  
**Sent:** Wednesday, May 15, 2013 12:07 PM  
**To:** Manager Department; Mark Hald; John Sonner  
**Cc:** Katelin Downer  
**Subject:** USE Special Permit - 100 Powder Mill Road

Please find enclosed the docushare link to the information for Monday, May 20, 2013 Board of Selectmen's meeting regarding Use Special Permit #04/10/13-442. The Use Special Permit is for a proposed Anytime Fitness at 100 Powder Mill Road, Acton, MA. The link is as follows:

<http://doc.acton-ma.gov/dsweb/View/Collection-5312>

If you have any questions, comments or concerns regarding this matter, please feel free to contact our office at (978) 929-6631, Monday through Friday (except for holidays) between the hours of 8:00 am and 5:00 pm. Sincerely,

Scott A. Mutch  
Zoning Enforcement Officer & Assistant Town Planner  
Town of Acton  
Planning Department  
472 Main Street  
Acton, MA 01720  
Tel: (978) 929-6631  
Fax: (978) 929-6340  
Email: [planning@acton-ma.gov](mailto:planning@acton-ma.gov)  
Website: [www.acton-ma.gov](http://www.acton-ma.gov)



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www.acton-ma.gov

**Zoning Enforcement Officer**

**INTERDEPARTMENTAL COMMUNICATION**

**To:** Steve Ledoux, Town Manager  
Board of Selectmen  
**Date:** May 14, 2013

**From:** Scott A. Mutch, Zoning Enforcement Officer & Assistant Town Planner

**Subject:** Use Special Permit Application #04/10/13-442 (Sonner)  
100 Powder Mill Road, James & Tina Flaherty

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Location: 100 Powder Mill Road, Acton, MA  
Applicant: James & Tina Flaherty, 205 Sugar Road, Bolton, MA 01740  
Owner: Atlantic Acton Realty, Ltd., c/o Atlantic Mgmt., 205 Newbury Street,  
Framingham, MA 01701  
Previous Site Plans: #03/12/80-0185: Construct New Shopping Plaza  
#07/10/83-0234: Amendment to Allow Certain Specific Uses (Dry Cleaners)  
#08/27/90-0327: Use Special Permit for Restaurant  
Previous BOA #86-5: Variance for Secondary Signage  
Hearings: #87-36: Variance to permit Radio Antenna  
Zoning: Powder Mill (PM)  
Groundwater Protection District Zones 1 & 2  
Proposed Uses: Commercial Recreation – Prospective 24-Hour Fitness Center  
Map/Parcel: J-3/34-8  
Hearing Date: May 20, 2013  
Decision Due: August 18, 2013

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Attached are the legal ad, application, plan sheets, and departmental comments. As of this date, comments have been received from the Town of Acton's Engineering Department, Building Department and Fire Department. Upon review of the submitted documents and comments received to date, as well as a general overall knowledge of the site, it does not appear that any of the disciplines have significant issues or questions pertaining to the issuance of this Use Special Permit. Should the Use Special Permit be issued and the Applicant move forward with occupying the subject space, alterations and modifications to the existing space will presumably require building, electrical and plumbing permits which will be reviewed for full compliance with specific Building and Fire Code issues and concerns.

The Applicant, who is the owner and operator of an Anytime Fitness franchise, is seeking approval to open and operate a 24 Hour Co-Ed Fitness Center on the subject property. The specific space

where the proposed fitness center would operate, is currently vacant since the previous tenant moved out. The subject space is located within a currently existing commercial shopping plaza, commonly known as Powder Mill Plaza.

Under the Town of Acton's Zoning Bylaw, Section 3.5.15, the proposed use is classified as Commercial Recreation. Commercial Recreation uses consisting of 2,000 square feet or more of Net Floor Area require a special use permit from the Board of Selectmen (Table of Principle Uses – Section 3.5.15 and the associated footnote 10). The proposed use will be approximately 4,200 square feet in size. The proposed site of this Commercial Recreation use is an appropriate location for this type of business and should raise few or no Planning Department concerns.

The existing building was constructed in 1984 and is approximately 75,083 square feet in gross floor area. The building was originally constructed and remains to this day as a neighbourhood shopping plaza. The larger shopping plaza structure is subdivided into multiple separate and individual retail/commercial spaces which are leased to several different entities, such as Dunkin' Donuts, Stop & Shop, Papa Gino's, etc.

At this time, it does not appear that the applicant is proposing any modifications or alterations to the structure which would result in any significant modification to the overall Floor Area Ratio (FAR) of the property. The property currently has a large amount of parking spaces, the majority of which are located in front of the building and in close proximity to the location of the proposed use. Without undertaking an exhaustive parking analysis which seems to be unnecessary at this point, the parking component has been reviewed and based upon the requirements of Section 6.3, the existing parking lot would seem to comply with the minimum Zoning Bylaw parking requirements.

The proposed use is a 24-hour operation. The proposed hours of operation do not seem to pose any significant concerns or potential problems as the site is not located immediately adjacent to any residential uses or dwellings.

In general terms, the Planning & Zoning Department does not object to the proposed Use Special Permit.



**TOWN OF ACTON**  
472 Main Street  
Acton, Massachusetts, 01720  
Telephone (978) 264-9628  
Fax (978) 264-9630

**Engineering Department**

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***INTERDEPARTMENTAL COMMUNICATION***

**To: Planning Department**

**Date: April 17, 2013**

**From: Engineering Department**

**Subject: Use Special Permit – #4/10/13 442 – #100 Powdermill Road – 24 Hour Anytime  
Fitness Center**

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The Engineering Department has reviewed the Use Special Permit to occupy the existing commercial space at 100 Powdermill Road and has the following comments:

1. Based on the application, we assume that there are no change to the building footprint and the existing parking area that would impact the existing groundwater recharge and/or the drainage patterns on the site.
2. The applicant has not discussed the potential traffic impacts to the site, but this modification appears to be minor in nature and we do not foresee a problem.

We do not foresee an issue with granting this request.

**Cheryl Frazier**

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**From:** Frank Ramsbottom  
**Sent:** Wednesday, April 17, 2013 3:09 PM  
**To:** Cheryl Frazier; Planning Department; Engineering Department; Health Department; Brian McMullen; Patrick Futterer; Robert Hart  
**Subject:** RE: <http://doc.acton-ma.gov/dsweb/View/Collection-5312>

I have no comment at this time. The applicants will need to file a building permit application prior to occupying the space. Any building code concerns will be dealt with at that time.

Frank Ramsbottom  
Building Commissioner  
Town of Acton, MA  
472 Main Street, 01720  
Phone # 978-929-6633  
Fax # 978-263-9630

**From:** Cheryl Frazier  
**Sent:** Wednesday, April 17, 2013 10:23 AM  
**To:** Planning Department; Engineering Department; Health Department; Brian McMullen; Frank Ramsbottom; Patrick Futterer; Robert Hart  
**Subject:** <http://doc.acton-ma.gov/dsweb/View/Collection-5312>

Good morning,

I am in receipt of a **Use Special Permit** application, tracking number (**#04/10/13-442**) for **100 Powdermill Road** for a 24 Hour Anytime Fitness Center.

Attached in the subject line above is the docushare link to view the application and plans.

If you have any questions or comments please email them to Scott Mutch, Zoning Enforcement Officer in the Planning Department no later than Friday, May 10, 2013.

Regards,  
Cheryl

*Cheryl Frazier*  
472 Main Street  
Acton, MA 01720  
978-929-6633 phone  
978-264-9632 FAX  
[cfrazier@acton-ma.gov](mailto:cfrazier@acton-ma.gov)

**Cheryl Frazier**

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**From:** Robert Hart  
**Sent:** Wednesday, April 17, 2013 3:17 PM  
**To:** Frank Ramsbottom  
**Cc:** Cheryl Frazier; Planning Department; Engineering Department; Health Department; Brian McMullen; Patrick Futterer  
**Subject:** Re: <http://doc.acton-ma.gov/dsweb/View/Collection-5312>

I concur with Franks commits.

Deputy chief

Robert Hart

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Sent via mobile device

On Apr 17, 2013, at 3:09 PM, "Frank Ramsbottom" <[framsbottom@acton-ma.gov](mailto:framsbottom@acton-ma.gov)> wrote:

I have no comment at this time. The applicants will need to file a building permit application prior to occupying the space. Any building code concerns will be dealt with at that time.

Frank Ramsbottom  
Building Commissioner  
Town of Acton, MA  
472 Main Street, 01720  
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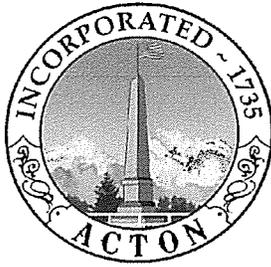
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Regards,  
Cheryl



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**Pamela Harting-Barrat**  
**Chairperson, Board of Selectmen**

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**Date: April 16, 2013**

**To: Abutters of 100 Powder Mill Road (Plaza)**

**Re: USE SPECIAL PERMIT # 04/10/13-442 Sonner**

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**LEGAL NOTICE  
TOWN OF ACTON  
NOTICE OF HEARING**

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**ACTON BOARD OF SELECTMEN**

Town of Acton

Application for a Special Permit

To The

Board of Selectmen

Please type or print your application.

Indicate the special permit/s requested. The fee for a Special Permit is \$250 unless otherwise noted.

Recreation	Nursing Home	Restaurant
Hotel, Inn or Motel	Combined Business & Dwelling	Lodge or Club
Veterinary Care	Commercial Kennel	Commercial Recreation
Commercial & Trade School	Amusement Facility	Freestanding Sign
Warehouse	Mini-Warehouse	Heating Fuel Sales/Service
Light Manufacturing	Scientific Research/Development/Production	
Reduced Parking Fee = \$100	Drive-Up Bank Fee = \$1000	Service Station Fee = \$1000

If this application is made concurrently with a site plan application, then the fee will be \$100 in all cases.

APPLICANT

Name & Address

James + Tina Flaherty  
205 Sugar Road  
Bolton, MA 01740  
Telephone  
978 835 8434

OWNER

Name & Address

Atlantic Acton Realty LTD  
c/o Atlantic Mgmt  
205 Newbury St  
Framingham, MA 01701  
Telephone  
508 427 7728

SITE

Location and Street Address of the Property

100 Powder Mill Road (Plaza)

Tax Map & Parcel Number J3-34-8

Area of Lot ac.

Zoning District

PM Business District

If any other permits or site plans have been granted for the property, give the file numbers:

20

Twelve (12) completed copies of this application and supporting materials including plan sheets, if any, are required at the time of submission. A certified abutters list taken from the most recent town tax list and certified by the Town Assessor must be included with this application. At a minimum, a 1"=1200' location map must be provided with each copy of the application showing the subject site in relation to other lots, roads, and natural features. Sufficient supporting information must be provided to fully explain the purpose and plans of the applicant -- attach additional sheets and plans as necessary. The Board may require additional information as it deems necessary. Each copy of any plan sheets shall be folded so that it will fit neatly into a letter sized file folder.

April 9, 2013

**Subject:** Application for a Special Permit

**Applicants:** James & Tina Flaherty, 205 Sugar Road, Bolton, MA 01740, phone: (978) 835-8434

**Property owner:** Atlantic Acton Realty LTD

**Summary:** This is an application for a special permit to open and operate a 4200 square foot 24 hour fitness center (Anytime Fitness) at 100 Powder Mill Road aka Powder Mill Plaza.

**Business District:** PM (Powder Mill District)

**Business Use:** 3.5.15 Commercial Recreation

**Issues specific to the Special Permit**

1. 24 hour operation
2. Commercial Recreation facility with a NET FLOOR AREA greater than 2000 square feet (attached: see foot note 10 on page 10 of Town of Acton Zoning Bylaw April 2012)

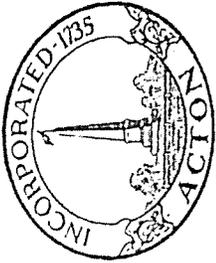
**Attachments:**

Certified abutters list

Business Use Description - page 15 of Town of Acton Zoning Bylaw April 2012

Notes for Table of Principal Uses - foot note 10 on page 10 of Town of Acton Zoning Bylaw April 2012

Various pages showing proposed Anytime Fitness location within plaza



Town of Acton  
 472 Main Street  
 Acton, MA 01720  
 Telephone (978) 929-6621  
 Fax (978) 929-6340

Brian McMullen  
 Assistant Assessor

Locus: 100 Powder Mill Rd  
 Parcel I.D.: J3-34-8

Location	Parcel ID	Owner	Co-Owner	Mailing Address	City	ST	Zip
284 HIGH ST	J3-34	ACTON WATER DISTRICT		PO BOX 953	ACTON	MA	01720
76 POWDER MILL RD	J3-34-4	AUTOPLEX I LLC		6 PROCTOR ST	ACTON	MA	01720
16 KNOX TRL-28	J3-34-5	ASSABET SAND LLC		16 KNOX TRL-28	ACTON	MA	01720
112 POWDER MILL RD	J3-37	VALLEY SPORTS INC		2320 MAIN STREET	CONCORD	MA	01742
77 POWDER MILL RD	J3-50	ACD LEE INVESTMENTS LLC		416 HARRINGTON AVE	CONCORD	MA	01742
82 POWDER MILL RD	J3-34-8	ATLANTIC ACTON RLTY LTD	C/O ATLANTIC MGMT	205 NEWBURY ST	FRAMINGHAM	MA	01701
60 POWDER MILL RD	J3-49-1	AUTOPLEX II LLC		6 PROCTOR ST	ACTON	MA	01720
65 POWDER MILL RD	J3-59	OLD MILL DEVELOPMENT TR	C/O BERTOLAMI LEO	6 PROCTOR ST	ACTON	MA	01720
3-33 KNOX TRL	J3-21-2	MCNULTY JOHN	ANTONELLI ROY	PO BOX 736	ACTON	MA	01720
298 OLD HIGH ST	J3-34-6	TRIPP RAY W III		298 HIGH ST	ACTON	MA	01720
292 OLD HIGH ST	J3-34-3	292 HIGH STREET LLC		2 CHANCE FARM LN	MAYNARD	MA	01754
100 POWDER MILL RD	J3-34-8	ATLANTIC ACTON RLTY LTD	C/O ATLANTIC MGMT	205 NEWBURY ST	FRAMINGHAM	MA	01701
TOWN OF CONCORD							

Abutters and owners of land directly opposite on any public street or way and abutters within three hundred feet of the property line all as they appear on the most recent applicable tax list

HEARING NOTICES FOR ALL SPECIAL PERMITS MUST BE SENT TO THE PLANNING BOARD, TOWN HALL IN THE FOLLOWING TOWNS:

Boxborough, MA 01729    Maynard, MA 01754    Concord, MA 01742    Littleton, MA 01460  
 Carlisle, MA 01741    Stow, MA 01775    Westford, MA 01866    Sudbury, MA 01776

*Mary Abbott*

Nov 14, 2012

Mary Abbott  
 Assessor's Clerk

# Business Uses

- 3.5.10 Veterinary Care – A facility where animals are given medical or surgical treatment, and short term boarding of animals within a fully enclosed BUILDING when incidental to the medical or surgical treatment.
- 3.5.11 Animal Boarding – Indoor or outdoor establishment where dogs, cats, or other pets are kept for the purpose of sale, training, breeding, or boarding care, including an animal shelter, and other activities related thereto.
- 3.5.12 Services – Establishments providing services directly to the consumer such as a bank, credit union, barber shop, beauty salon, laundry, dry-cleaning, diaper service, building cleaning service, funeral home, shoe repair, tailor, clothing rental shop, equipment rental or leasing, food catering, photocopying, secretarial service, or similar USES or establishments.
- 3.5.13 Repair Shop, Technical Shop, Studio – Repair and service of appliances, computers, office equipment, bicycles, lawn mowers, or similar small equipment; photography or film studio; art studio; artisan's studio; music instruction or practice room; or similar USES or establishments.
- 3.5.14 Building Trade Shop – An establishment for use by the practitioner of a building trade such as a carpenter, welder, plumber, electrician, builder, mason, landscaping contractor, lawn care service, building cleaning service, or similar occupation.
- \* 3.5.15 Commercial Recreation – A facility operated as a business, open to the public for a per-  
visit or membership fee, and designed and equipped for the conduct and instruction of sports and recreation such as ice skating, roller skating, racquet ball, tennis, swimming, body building, fitness training, steam baths, sauna, aerobics, yoga, dancing, martial arts, bowling, horseback riding, skiing, ball games, golf course, country club, miniature golf, golf driving range, or similar customary and usual sports and recreational activities.
- 3.5.16 Commercial Entertainment – An indoor facility such as a theatre, cinema, performing arts center, or video arcade. In the SAV District, only cinemas, theaters, or performing arts center shall be allowed.
- 3.5.17 Golf Course in Residential Districts - In the R-2, R-4, R-8/4, R-8, R-10/8, and R-10 Districts the Planning Board may approve by special permit a golf course with at least 18-holes that is designed and managed consistent with "Environmental Principles for Golf Courses in the United States" published by The Center for Resource Management; Salt Lake City, Utah; amended through 1996:
- 3.5.17.1 The Planning Board may approve ACCESSORY USES and BUILDINGS that are customarily incidental to a golf course, such as but not limited to:
- a) Clubhouse, pro-shop, locker rooms, administrative offices, restaurant, bar, snack bar, or on-course shelters.
  - b) Function rooms and banquet facilities for members and guests.
  - c) A practice area, tees, or greens.
  - d) Accessory recreational facilities such as tennis courts or a pool.
  - e) Maintenance and storage BUILDING.
  - f) Up to 10 guestrooms.
  - g) Up to two DWELLING UNITS solely for occupancy by the golf course staff.
- 3.5.17.2 The combined NET FLOOR AREA of all BUILDINGS shall not exceed 60,000 square feet.
- 3.5.17.3 The following setback standards shall apply to BUILDINGS, STRUCTURES, parking lots and accessory recreation facilities.
- a) Minimum front yard                      • 45 feet,

### NOTES FOR TABLE OF PRINCIPAL USES

- (1) See also Section 10.4.3.12 - Special Provisions Applicable in the SM District, for special USE restrictions in oversized BUILDINGS.
- (2) A Single FAMILY Dwelling with one Apartment shall require a Special Permit from the Board of Appeals, if located on a LOT with less than 15,000 square feet in LOT area, or if the Apartment is located in a detached BUILDING. See Sections 3.3.2.9 and 3.3.2.10 of USE Definitions.
- (3) Not more than four DWELLING UNITS shall be permitted per multifamily dwelling. In the VR District a Site Plan Special Permit shall not be required. In the SAV district, the Board of Selectmen may by Special Permit allow more than four DWELLING UNITS per Multifamily Dwelling.
- (4) Multifamily dwellings created under the provisions of Section 5.4 and Section 5.5 shall be permitted.
- (5) if the proposed USE will be located in the Floodway Fringe, as defined in Section 4.1, or Zones 1, 2 or 3 of the Groundwater Protection District, as defined in Section 4.3, before granting a special permit under this Section the applicant shall submit the information required under Sections 4.1 or 4.3 and the Board of Selectmen shall find that the proposed USE complies with the requirements of Sections 4.1.8.1 and 4.1.9, and 4.3.8 through 4.3.10 respectively.
- (6) Assisted Living Residences with 10 or fewer residents shall not require a Special Permit or Site Plan Special Permit.
- (7) Refer to Section 3.10 for specific standards for Wireless Communication Facilities and for certain categorical exemptions from the requirements set forth in the Table of PRINCIPAL USES.
- (8) Provided that the owner of the property resides on the property, the business USE is limited to 500 square feet of NET FLOOR AREA, and all parking spaces are provided to the rear or side of the BUILDING. For purposes of this footnote, the owner shall be defined as one or more individuals residing in a DWELLING UNIT who hold legal or beneficial title and for whom the DWELLING UNIT is the primary residence for voting and tax purposes. The business USE hereunder shall not be deemed a home occupation. Home occupations are authorized separately under Section 3.8.1.2. Site Plan Special Permit shall not be required. Hours of business operation shall be limited to 7 AM to 9 PM Monday through Saturday, except hours of retail sale shall be limited to 7 AM to 7 PM Monday through Saturday. Exterior lighting fixtures for the business USE shall not be illuminated except during hours of business operation.
- (9) No Special Permit shall be required for a Restaurant with 10 seats or less.
- ~~(10)~~ No Special Permit shall be required for Commercial Recreation facilities with a NET FLOOR AREA of less than 2,000 square feet.
- (11) No Special Permit shall be required for this USE if its NET FLOOR AREA is 5000 square feet or less.

# Acton Massachusetts

Electric - NST BR  
Gas - National G



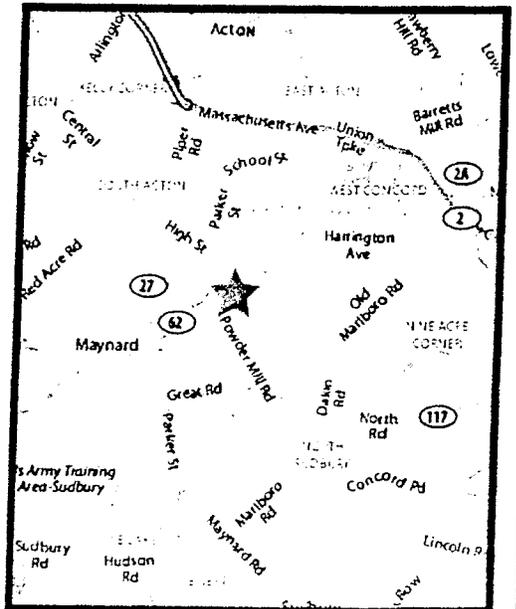
Powder Mill Plaza is a strong community shopping center located amidst a very high income residential population. The property sits close to the Maynard and Concord town lines at a traffic signal and serves a large trade area which has few shopping choices. Many businesses today are located nearby where there are over 20,000 employees within 3 miles of the center. This 75,000SF community center fills all of the daily needs of consumers with Stop & Shop, Rite Aid Pharmacy, Digital Credit Union, Papa Gino's, Dunkin Donuts and others. Existing and new leasing opportunities exist at the center today.

Radius	Population		2008 Estimated HH Income	
	2008(est.)	2013 (proj.)	Average	Median
1 mile	3,272	3,207	\$153,193	\$118,037
3 mile	31,505	31,140	\$156,664	\$123,072
5 mile	63,941	63,498	\$173,823	\$133,459

For more information contact:

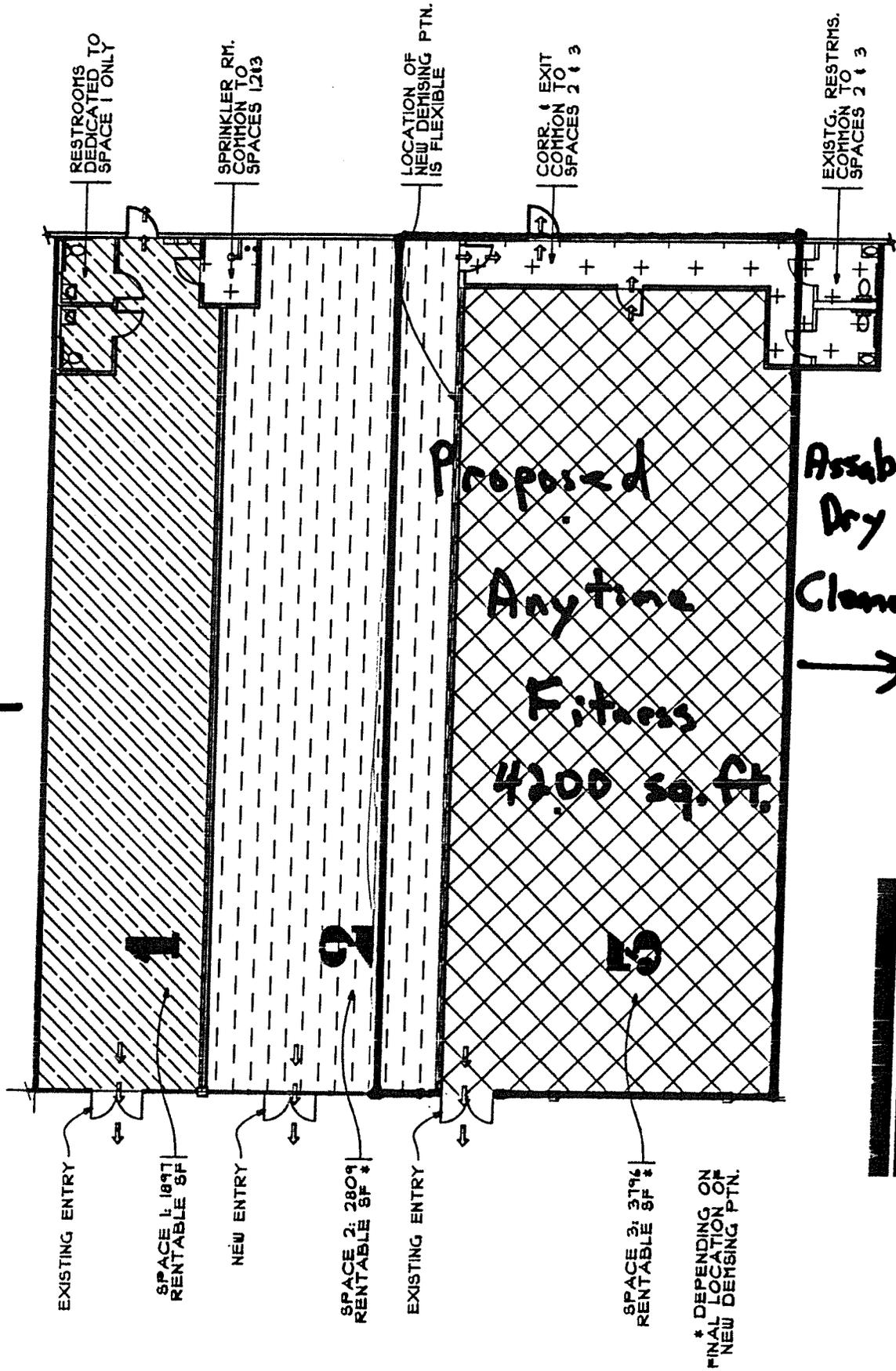
**RIA K. McNAMARA, INC.**  
**RETAIL REAL ESTATE SERVICES**

PHONE: 508-254-7676 • RIA@RETAILRE.COM  
WWW.RETAILRE.COM





Shop + Shop  
↑

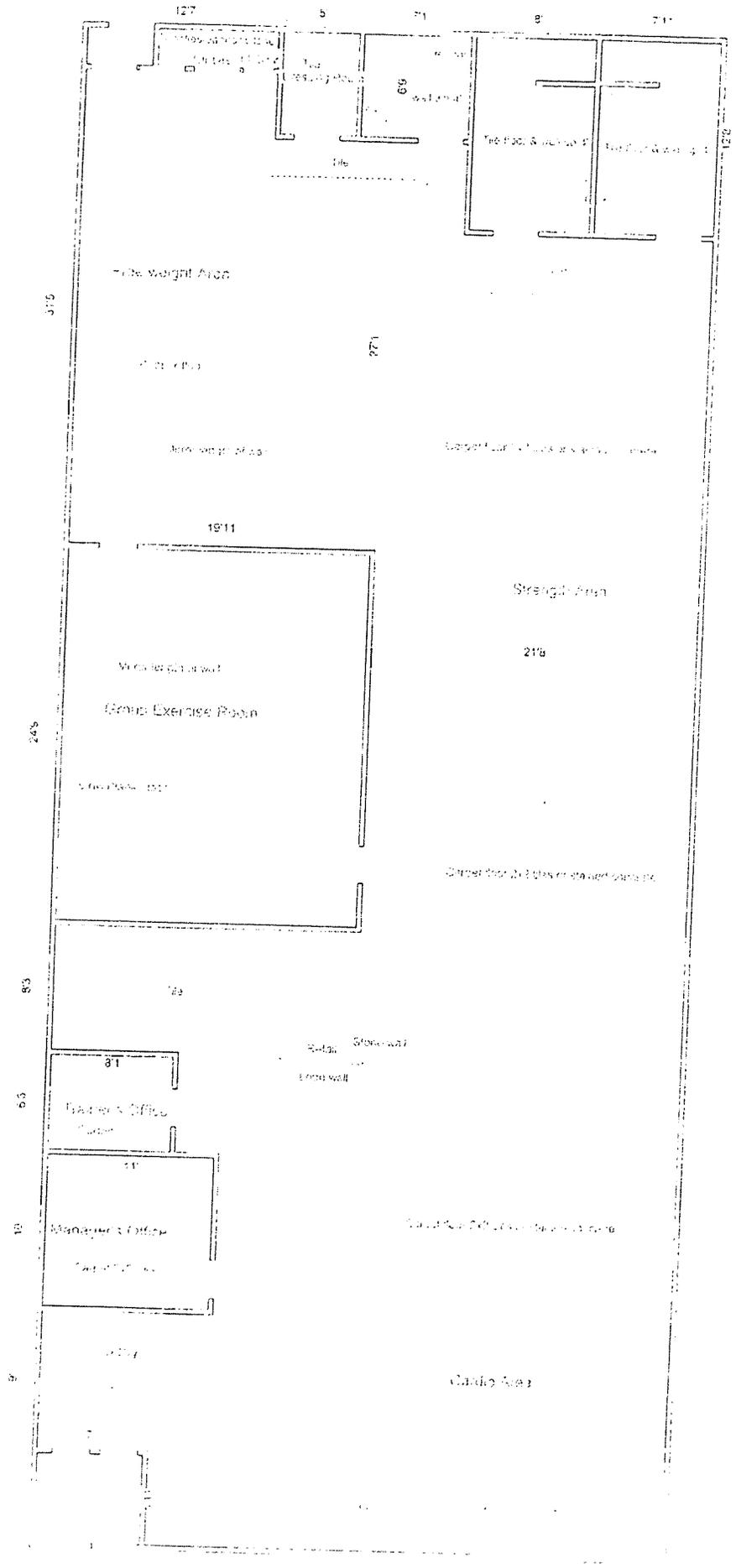


Assabet  
Dry  
Closures  
↓

MULTI-TENANT SCENARIO  
FORMER DRESS BARN SPACE  
POWDER MILL PLAZA, ACTON MA

**MALCOLM A. BLIER**  
Architecture/Planning  
248 Walnut Street Newton MA 02460  
ph 617/964-2236 fx 617/964-6908

6/16/2011



# Proposed Floor Plan

100x