

ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053

DATE: APRIL 16, 2014

CASE NO.: 4/16/2014-2

APPLICANT: J&A REVOCABLE TRUST
ANGELA POITRAS, TRUSTEE
42 LITCHFIELD ROAD
LONDONDERRY, NH 03053

LOCATION: 42 LITCHFIELD ROAD; 12-8-1; AR-I

BOARD MEMBERS PRESENT: JIM SMITH, CHAIR
NEIL DUNN, VICE CHAIR
JIM TIRABASSI, VOTING MEMBER
JACQUELINE BENARD, VOTING ALTERNATE
DAVID PAQUETTE, CLERK

REQUEST: SPECIAL EXCEPTION TO ALLOW THE INTERNET SALES OF FIREARMS AS A HOME OCCUPATION IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3.12.

PRESENTATION: Case No. 4/16/2014-2 was read into the record with one previous case listed.

JIM SMITH: Who will be presenting?

JOSEPH MAYNARD: Good evening, my name's Joseph Maynard. I'm from Benchmark Engineering. With me tonight is Mr. Jeff Poitras, as one of the trustees of the JA...J&A Revocable Trust...so...what we are here tonight for is we are looking for a special exception for a home occupation...to allow internet sales of fire alarm...fire arms, and on occasion, by appointment only at the residence ...sale of the fire arms within the dwelling. As you can see from the floor plan that we have identified the first room off of the porch, when you enter from the street side of the home, there is an existing office space in that structure with dimensions of about thirteen by a little over ten feet...deep, accounting for about one hundred and thirty four square feet of the existing structure. Any of the fire arms actually stored on site will meet...be in accordance with the alcohol...and tobacco and fire arms...of the division of Government...and...we are here tonight to request a special exception to allow this to happen within the property.

JIM SMITH: Ok...[long pause]...any other comments or...?

JOSEPH MAYNARD: No...it's a very small...business that Mr. Poitras has. He is looking to move it and just operate through mostly internet sales and it's all going to happen within that small area of the...of the

45 structure. So from time to time they will be shipping fire arms out of the property or he will may be receiving
46 some that he will be...repackaging and reissuing back through a mail service or some sort of...carrier service.
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48 JIM SMITH: Ah...how often do you think you may have someone come to the site?
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50 JEFF POITRAS: Once or twice a week...that's it.
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52 JIM SMITH: Ok.
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54 JEFF POITRAS: If that...
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56 [Long pause]
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58 JIM SMITH: Any other questions? Jackie?
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60 JACKIE BERNARD: Could you help me understand...? I understand that it is internet sales of fire arms
61 so...you...you don't manufacture them there obviously...so you rework them and then you reship them...I
62 guess I'm just trying to understand how that works from the house...
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64 JEFF POITRAS: Actually it's...
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66 JACKIE BERNARD: ...if possible.
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68 JEFF POITRAS: There's...there's in essence...two methods of really doing it. When you sell them...any type of
69 commodity, particularly fire arms on the internet, you have to...you have to either obtain them from a
70 wholesaler, advertise it, and then of course sell it and...make the transaction. The industry is actually shifting
71 quite a bit towards the amazon type business...where you actually have a website and your website is
72 populated with quite a bit of inventory that you actually don't even own. It actually belongs to some of the
73 distributors we have partnerships with...they in turn...we receive an order which we actually process through
74 the distributors...and often we don't even see the product. It's actually directly shipped to another dealer or
75 an individual, if he is buying clothing, or something like that. So...
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77 JACKIE BERNARD: Ok, so you are not storing them in the small front room or a vast amount in the front room.
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79 JOSEPH MAYNARD: Not a vast amount. There may be some...
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81 JACKIE BERNARD: Ok...just trying to wrap my head around it...
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83 JOSEPH MAYNARD: There may be some inventory...
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85 JEFF POITRAS: Right.
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87 JOSEPH MAYNARD: But it...it will all be stored within a safe, more than likely...
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89 JEFF POITRAS: Right.

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91 JOSEPH MAYNARD: Safe-looking type of storage...
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93 JACKIE BERNARD: For people who would come to the residence.
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95 JOSEPH MAYNARD: That may be if there is a product that...
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97 JACKIE BERNARD: If...
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99 JOSEPH MAYNARD: If there is a product that they have that they're...they are redistributing or something...
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101 JEFF POITRAS: Right.
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103 JOSEPH MAYNARD: ...and someone comes to pick it up, it will be locked in a...in a safe...
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105 JACKIE BERNARD: So a majority of your internet business, you act as the broker for that transaction.
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107 JOSEPH MAYNARD: Correct.
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109 JEFF POITRAS: Correct.
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111 JACKIE BERNARD: Ok...alright thank you very much.
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113 JEFF POITRAS: Yup.
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115 NEIL DUNN: If I may Mr. Chairman? So you are saying that the guns will be stored outside that little office
116 area?
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118 JOSEPH MAYNARD: No...
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120 JEFF POITRAS: No...
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122 JOSEPH MAYNARD: Within that space?
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124 NEIL DUNN: Within that space...and can you describe for me the...you're saying there will be...any fire arms
125 stored on site will be in accordance with the requirements of the ATF...could you elaborate on that for us
126 please?
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128 JEFF POITRAS: ATF requires that you keep everything under lock and key. They are not really specific in terms
129 of it has to be a fire proof safe, but everything has to be locked in and it has to have an alarm system that
130 is...automates to the police department for notification if anything happens. That is what the requirement is.
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132 NEIL DUNN: So you have an alarm now or you will have an alarm that notifies...
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134 JEFF POITRAS: I have one now...

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NEIL DUNN: ...that notifies the police...and that is to the one room or in to the whole house?

JEFF POITRAS: It's the whole dwelling...

JIM SMITH: Anyone else?

JIM TIRABASSI: Yes, will...will you be storing ammo with the guns?

JEFF POITRAS: Um...

JIM TIRABASSI: Or is that a separate item?

JEFF POITRAS: Um...well...we have...a little bit of ammo, and about...I would say about eight bunts will be nonexistent...because I will just be bringing some ammo from the existing store I have...liquidating that and not replacing it so...but it...the question is where it's stored. It's stored separately in a separate lock facility.

JIM TIRABASSI: Ok.

JEFF POITRAS: Yes...yes...everything is locked up.

JIM TIRABASSI: Ok.

JEFF POITRAS: Yup...

JIM TIRABASSI: So there will be not testing of...?

JEFF POITRAS: There's no testing, no gunsmithing, there is no fixing...

JIM TIRABASSI: Ok.

JEFF POITRAS: ...there's no enhancing...there is...none of that work is done. Everything is done in...in box slots, whatever it is...

JIM TIRABASSI: Ok...yup.

NEIL DUNN: Yeah there was one mention that you might do incidental work so I just heard you're not doing anything but I thought I saw something...

JOSEPH MAYNARD: Well...I...I just want to elaborate on sometimes there are times where he will take a fire arm and modify the trigger with an improved trigger or something of that...so...we figured we would cover it with just saying there may be some minor modification to some of the fire arms.

NEIL DUNN: But I just heard him say he is not doing anything so...

180 JOSEPH MAYNARD: Well...
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182 NEIL DUNN: I was just looking for clarification...
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184 JOSEPH MAYNARD: Well, gunsmithing is a different thing than....
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186 NEIL DUNN: Well that's...I...
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188 JOSEPH MAYNARD: ...than taking parts, so to say and swapping them I guess and so...I...I just...when I did the
189 application I was trying to be clear that it would cover minor incidental things such as that but I don't think Mr.
190 Poitras plans on doing any gunsmithing...
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192 JEFF POITRAS: We...we don't do any gunsmithing and...correction, we don't do triggers or anything like that...
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194 JOSEPH MAYNARD: Ok.
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196 JEFF POITRAS: What I meant to convey to Joe is that if somebody buys a gun they often want to buy a scope
197 to go hunting but it...in their separate commodities, we generally put them together and screw them
198 together...that...that's the extent of it...
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200 JACKIE BERNARD: May I ask what the difference between smithing and your application states that you will
201 repair accessories and repair or general maintenance. What is the difference between smithing and repairing?
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203 JEFF POITRAS: Well...I have a gun smith that does all that work for me. He does it in Salem, MA...Salem, New
204 Hampshire rather...and...I actually...any type of work we just send it to him. So...
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206 JACKIE BERNARD: So you won't...you won't...
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208 JEFF POITRAS: ...people...
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210 JACKIE BERNARD: You won't be doing any maintenance or general repairs there.
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212 JEFF POITRAS: No, not at all...no...no.
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214 JIM SMITH: So I think what you are trying to say is...you would be limited to mounting a scope on a rifle.
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216 JEFF POITRAS: Correct.
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218 JIM SMITH: So...or another type of weapon...
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220 JEFF POITRAS: Correct...that's all.
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222 JIM SMITH: Yeah...yeah...nothing beyond that...ok.
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224 JEFF POITRAS: No.

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JIM SMITH: Any other questions from the Board?

DAVID PAQUETTE: No, sir.

JIM SMITH: At this point, anyone who is in support of this? Seeing none, anyone who is in opposition...or has questions? If so please approach one of the mics and identify yourself. [Long pause]. Ok...if there is no other...

NEIL DUNN: If I may? Clarification or...we are calling it a website business but you are saying one of two people maybe a day...?

JOSEPH MAYNARD: No no...a week.

NEIL DUNN: A week?

JEFF POITRAS: A week.

[Long pause]

JIM SMITH: Ok...just...a...on the internet part of it, will the weapon be delivered to you or to the customer directly by...from the manufacture?

JEFF POITRAS: It's delivered to another... either myself or a dealer or directly shipped to another dealer. Fire arms can only be delivered to...licensed dealers.

JIM SMITH: Ok...

JEFF POITRAS: They cannot be delivered to...to individuals.

JIM SMITH: So when the...it's delivered to you than the purchaser has to come to your location to pick the weapon up?

JEFF POITRAS: He does. He has to pass an ATF background check. They have to...

JIM SMITH: So would that be the one or two people that would come to your...

JEFF POITRAS: Correct.

JIM SMITH: Ok, so what we are really talking about mainly is, those persons who would be coming to the site to actually receive delivery of the weapon which you...they have purchased through the internet.

JEFF POITRAS: Correct.

NEIL DUNN: And you couldn't ship that out to them as opposed to them coming to the house?

270 JEFF POITRAS: I would ship it out to them unless they live very...within southern New Hampshire. Otherwise
271 they are all shipped out. I ship them...I ship out guns every day all over the country. We ship them to other
272 dealers.
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274 JIM SMITH: Yeah but don't you ship them to another dealer?
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276 JEFF POITRAS: Absolutely.
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278 JOSEPH MAYNARD: Yeah...yes.
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280 JIM SMITH: You can't ship it directly to a person...
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282 DAVID PAQUETTE: Or another FFL holder.
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284 JEFF POITRAS: Right...correct.
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286 DAVID PAQUETTE: Federal Fire Arms License holder...
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288 JEFF POITRAS: Right...correct.
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290 JIM SMITH: Ok...any other questions?
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292 JIM TIRABASSI: Yeah...yes I do. How will you receive them. What...what form of mail?
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294 JEFF POITRAS: The industry typically uses FedEx and UPS.
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296 JIM TIRABASSI: Ok any ...it's not dropped; it has to be signed for and received?
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298 JEFF POITRAS: Absolutely, it has to be signed for by an adult individual.
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300 JIM TIRABASSI: Ok...and a license...licensed individual or?...
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302 JEFF POITRAS: Anyone twenty one years of age or older. There are only two people that live in the dwelling.
303 They're not dropped, they're not put on the front porch...no...
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305 JIM TIRABASSI: Ok.
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307 JEFF POITRAS: No.
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309 JACKIE BERNARD: May I ask one more questions Mr. Chairman? Do you have this particular business in an
310 industrial location? Do you do business elsewhere? Do you have another business from?
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312 JEFF POITRAS: I have a...store front in Windham, New Hampshire.
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314 JACKIE BERNARD: For guns?

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JEFF POITRAS: Correct.

JACKIE BERNARD: Ok...so doing this from your home versus keeping it in Windham is...

JEFF POITRAS: Well I will be honest with you, my wife and I are both turning sixty-five this year. That store is a bit of a...time consuming event. It is a lot of fun, but I actually really do want to wind down out of that We have a few customers that we would like to be able to still take care of, but the day to day traffic and the people coming in the store...I think we are ready to try to...try to move away from that. That is really the reason for this request.

JACKIE BERNARD: So you're business location...your...if I understand correctly, you want to pretty much shut that down and then retire, so to speak?

JEFF POITRAS: Yes.

JACKIE BERNARD: And just do this out of your home?

JEFF POITRAS: Yeah...yes...that's correct.

JACKIE BERNARD: Ok. Thank you.

JEFF POITRAS: Yeah.

NEIL DUNN: Would you be...I guess my thought is....when we look at home business and especially we're...we're set up for internet businesses and stuff of that nature, we are trying to keep less and less traffic out of the neighborhood and we have had instances in the past with businesses...would you be against having a...a restriction with no...no walk up traffic?

JOSEPH MAYNARD: I...I think we would be fine with a restriction by appointment only. We don't anticipate...it's not like it is an advertised storefront, you know...it's...if someone that he does sell a firearm to, they need to make an appointment to actually come by and pick that up from him. Again he is not in your conventional neighborhood so to say...he is right on Litchfield Road, which does see a considerable amount of traffic now. But again, to say no people coming to the house I think would defeat some of the purpose of him having a business at the home, if I am correct.

JEFF POITRAS: There is no signage...no...there will be no ...

JOSEPH MAYNARD: There's no advertising...

JEFF POITRAS: No advertising...and...you know, we will change the web to state...you know...'by appointments only.' That's it. I don't want people walking up to my door...no.

JIM SMITH: Ok...no other further questions? No one in the audience has anything? Ok, at this point we will close the public hearing and go on to deliberation.

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DELIBERATIONS:

DAVID PAQUETTE: I'm on board...

JIM SMITH: What?

DAVID PAQUETTE: I'm on board...

JIM SMITH: You're on board.

[Laughter]

JIM TIRABASSI: But the minor customization...and...

JIM SMITH: Well...I think they clarified it. It's their idea of mounting a...a scoop with is usually a couple of screws and...but that...that's the extent of what he is talking about.

JIM TIRABASSI: Right, but that's the current extent.

JIM SMITH: Well...[sigh]...I suspect that he doesn't have the skills to do...anything else.

JEFF POITRAS: Thanks, Jim.

NEIL DUNN: If I may Mr. Chairman...I...you know we look...we look at a lot...we have got a lot of leeway on internet businesses and home businesses, this is zone AR-I...I don't know...I am not sure that walkup by appointment or not, gun sales...

JIM SMITH: Well...

NEIL DUNN: ...in a residential neighborhood is what...what maybe the ordinance was after. I think we have talked to this before about no impact on the neighborhood unless it is defined and specifically allowed...and I...I don't know I...we have had some bad experiences and I...to me personally...that's why I was asking can it be a web business, that is a home office business. That's what we set up these home office business for....these home based businesses for...other than other ones that are specifically allowed, like daycare...

JIM SMITH: Well...I...I think...

NEIL DUNN: So that's just my input, I am just giving you my input on it...my...

JIM SMITH: Well, I think the way he was presented he...he is evidently using this to downsize to a...lack of a better word, almost a hobby type thing. He is just going to service a few...some existing customers. He is not advertising a lot and I think part of what you are faced with...with the type of restrictions on the sale of weapons and stuff, they have to be sent, if they are being shipped, to a licensed dealer. So if I want to buy a...a burette or whatever, I can go on the internet, make the appropriate sale...the weapon is going to be delivered

405 to this gentleman and then on the day that I am going to pick it up I go to him home, pick up the weapon and
406 go home. And I think that is the extent of what he is proposing.
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408 NEIL DUNN: No...and I follow all of that...
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410 JIM SMITH: Yeah.
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412 NEIL DUNN: Yeah.
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414 JIM SMITH: So...the only thing I am surprised at, we have...we have absolutely no...neighborhood...reaction to
415 this...which is unusual. Usually there is several people from the neighborhood that...have their opinion about
416 this type of operation...so...evidently he has made a good job of contacting his neighbors and satisfying them
417 ahead of time. I am not sure he did, I am just speculating on that, because I don't see anybody...so...anyone
418 else have any comments.
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420 DAVID PAQUETTE: As far as I am aware, the local Chief of Police needs to be...
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422 JIM SMITH: Yeah...
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424 DAVID PAQUETTE: ...made aware of the...the intent to do this too...so...I am sure that has been done...as part
425 of the FFL.
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427 JIM SMITH: Yeah...any other comments? Any? If not than I will entertain a motion...
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430 DAVID PAQUETTE: Mr. Chairman I would like to raise a motion to approve...case number...4/16/2014-2...with
431 no restrictions.
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433 JIM SMITH: Do I have a second?
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435 JACKIE BERNARD: Can I add restrictions?
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437 JIM SMITH: Say that again?
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439 JACKIE BERNARD: Can I add restrictions?
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441 [Long pause]
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443 JIM SMITH: Well...why don't we...? That motion dies for lack of a second. Why don't you make a motion?
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445 JACKIE BERNARD: Alright so...make sure I start it off correctly. So I...Mr. Chairman I would like to make a
446 motion...to approve with the restrictions...
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448 JIM SMITH: Ok...put the case number in...
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450 JACKIE BERNARD: The case number is 4/16/2014-2...with the restrictions...that there is no repair or
451 maintenance of firearms...and that by appointment only...no...off the street business.

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453 JIM SMITH: Ok, do I have a second?

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455 DAVID PAQUETTE: Mr. Chairman, I would like to second that motion.

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457 JIM SMITH: Ok, all those in favor?

458
459 DAVID PAQUETTE: Aye.

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461 JIM SMITH: Aye.

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463 JIM TIRABASSI: Aye.

464
465 JACKIE BERNARD: Aye.

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467 NEIL DUNN: Opposed.

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469 JIM SMITH: Opposed...we have got one opposed and four for.

470
471 JACKIE BERNARD: Thank you.

472
473 DAVID PAQUETTE: With the restrictions that no repair or maintenance...or walk up traffic?

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475 JACKIE BERNARD: Correct.

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477 DAVID PAQUETTE: Case number 4-16-2014-2 has been approved...has been granted...with restrictions of no
478 repair or maintenance or retail walkup business...4-1-0.

479
480 RESULT: THE MOTION TO GRANT CASE NO. 4/16/2014-2 WITH RESTRICITONS WAS APPROVED, 5-0-0.

481
482 RESPECTFULLY SUBMITTED,

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484 DAVID PAQUETTE, CLERK

485
486 TYPED AND TRANSCRIBED BY KIRBY WADE, EXECUTIVE ASSISTANT

487
488 **APPROVED MAY 21, 2014** WITH A MOTION MADE BY NEIL DUNN, SECONDED BY JIM TIRABASSI AND
489 APPROVED 4-0-1 (ANNETTE STOLLER ABSTAINED AS SHE HAD NOT ATTENDED THE MEETING).