

**Victoria Desidero**

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**From:** propellerhat <jay@subtract.inc>  
**Sent:** Monday, August 30, 2021 3:07 PM  
**To:** Victoria Desidero; Victoria Desidero  
**Subject:** Updated Statement of Use for Subtract, Inc.  
**Attachments:** Subtract Inc Statement of Use Update 2.pdf

Hi Victoria,

Attached is our updated statement of use document. We have removed the part about on-site transfers. After speaking with a lawyer, we're confident this change should satisfy all parts of the town code since no customers will be allowed to visit the premises. Please forward to the planning board.

Thanks,  
Jay

*9.8.21 posted on Website*



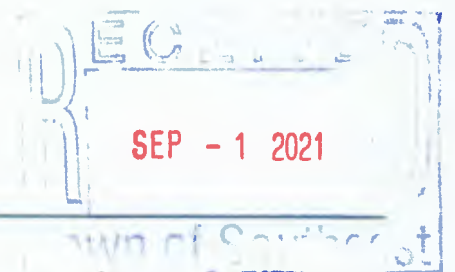


## Statement of Use

Prepared for: Town of Southeast Planning Board

Prepared by: Ashley Smith, President and Jay Smith, Vice President, Subtract, Inc.

August 26th, 2021



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## **SUBTRACT, INC.**

# STATEMENT OF USE FOR SUBTRACT, INC. (UPDATE 2)

Subtract, Inc. is an FFL located at 20 Welfare Road in Brewster, N.Y. owned by Ashley Smith and Jason "Jay" Smith. Ashley Smith is the majority owner and President. Jason Smith is a Vice President and owner. The board consists of Jason and Ashley Smith. Subtract was incorporated in New York State as an S Corp. on January 7th, 2021.

### **Small Volume Parts Manufacturing**

Subtract, Inc. will primarily be engaged in small volume parts manufacturing. The corporation will be obtaining a Haas Mini Mill CNC machine[1]. The Mini Mill is a small footprint CNC suitable for hobby and small businesses. It will be installed in the garage at 20 Welfare Road. It is slightly larger than a commercial bagged-iced freezer that one would find outside of a 7-11. The mill runs on electricity. The only byproduct of the machine is aluminum chips which will be carried away in a plastic garbage can in our pickup truck and brought to a recycler who will pay us around 50 cents per pound. When the mill is on and the spindle is running at full speed, the machine is virtually noiseless. The only noise occurs when the cutting tool is engaged in material making a cut. The amount of noise produced depends on the material being cut. Subtract, Inc. plans on producing aluminum parts. Aluminum is a soft metal. The cutting process will not produce significant noise and the noise will certainly not be detectable from outside of the dwelling when the garage doors are closed. This particular mill also has an enclosure which helps reduce noise further. The parts we intend to make include firearms components, hence the need for an FFL. We will be selling components and firearms online and shipping items to customers via standard residential shipping carriers (UPS, FedEx, USPS, etc.).

### **Government Contracts**

A great customer for a small firearms manufacturer to have is the United States Government. FFLs such as Subtract, Inc. can bid on contracts that have been set-aside for small businesses. This enables us to bid on contracts without competition from large corporations. Since my Wife is the majority owner of the corporation, there are additional set-asides that can only be bid on by WOSB (Women-Owned Small Businesses). In order to be more competitive, my Wife and I opted for a less common and more expensive class of FFL that would enable us to bid on contracts that other FFLs might not have the ability to fulfill. Subtract, Inc. is a type 10 FFL which is a "manufacturer of destructive devices." While this might sound scary to individuals outside of the industry, it is most assuredly not. The primary impetus for Subtract, Inc. to obtain a type 10 is to bid on contracts involving 40mm launchers. The Department of Homeland Security is one federal agency that offers contract opportunities involving 40mm launchers for less-lethal use[2]. In addition to the Federal Government, countless police departments across the country deploy 40mm launchers as a less-lethal alternative. Given the recent civil unrest across the country where police made heavy use of 40mm launchers with less-lethal chemical and kinetic rounds, it's simply a good business decision to obtain a type 10 FFL to open up more opportunities.

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Above: A police officer holds a 40mm launcher with less-lethal rounds (the cartridges with blue projectiles seen on the stock). The ATF classifies all 40mm launchers as destructive devices even if they will only be used for less-lethal rounds[3]. Image source: <https://www.northdeltareporter.com/news/delta-police-roll-out-less-lethal-foam-launcher/>

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Above: An LAPD Police Officer preparing to deploy his 40mm launcher with less-lethal rounds at a riot on May 29th 2020. Image source: <https://khn.org/news/rubber-bullets-protesters-police-often-violate-own-policies-crowd-control-less-lethal-weapons/>

### **Subtract, Inc. Will Not Deal In Any Amount of Explosives**

Since the original draft of Subtract, Inc.'s statement of use, there was a public hearing. During the hearing, members of the public noticed that a type 10 FFL is permitted to manufacture explosive ammunition and other devices containing explosives. While these concerns are understandable, Subtract, Inc. cannot actually possess, or manufacture with, explosives. A type 10 FFL is a necessary, but not sufficient, requirement for manufacturing any type of explosive ordnance. In order to manufacture or deal in destructive devices with any explosive content, you must obtain an additional license called a Federal Explosives License or FEL.[4][5]. Subtract, Inc. will never be able to obtain an FEL at 20 Welfare Rd. because of the extraordinary requirements around storage. In order to qualify for an FEL, the applicant must have an explosives magazine[6]. These magazines are essentially subterranean bunkers that must meet a rigorous set of criteria. They even need to have a metal lining in the floor to prevent a person from digging up into the magazine. The magazines are required to be very far from inhabited buildings[7]. Given these facts, Subtract, Inc. will never be permitted to manufacture, keep, or store any type of explosives or explosive ordnance at 20 Welfare rd., not even ordnance with low explosives content like flash-bangs[4]. In addition, Subtract has requested a restriction on the conditional use permit stating no ammunition of any kind will be manufactured on the premises.

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Above: An ATF example of an explosives magazine. Due to the requirements surrounding explosives, 20 Welfare Rd. will never be a compliant property for an FEL. Image source: <https://www.atf.gov/explosives/explosive-storage-requirements>

## TOWN CODE AND SUBTRACT, INC. ABILITY TO COMPLY

Below is the town code regarding home occupations, verbatim. Subtract, Inc.'s comments about its compliance are shown in bold.

### § 138-56.2 Home occupations.

A. All home occupations shall be subject to the following conditions:

(1) A home occupation shall be clearly accessory to the principal residential use of the dwelling and shall not change the character thereof.

**Subtract, Inc. is in compliance with this stipulation. Our activities do not require any significant modifications to the home and we don't have any plans to make modifications. Other than a very secure safe lagged to the concrete garage floor (already installed as of this writing) and a future CNC mill occupying less than one bay of our 3 car garage, no changes are planned or needed.**

(2) Permissible home occupations shall include art or craft studios; dressmaking; tailor; baking, cooking, and preparation of goods for off-site sale and consumption; office for a clergyman, lawyer, physician, dentist, architect, landscape architect, designer, engineer, data technician, real estate agent, consultant, or accountant; tutoring and teaching, with music, dance and other instruction limited to four pupils at a

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time; and internet based sales where no customers visit the premises and all pick-up and delivery occur through standard residential delivery services.

**Subtract, Inc. falls into the category of "preparation of goods for off-site sale and consumption" as well as "Internet based sales where no customers visit the premises". All sales of parts that are regulated as firearms will be shipped using standard residential UPS, FedEx, and USPS services. No freight or non-residential delivery services will be used in any aspect of business. No customers will visit the property at any time for any purpose.**

(3) Home occupations shall exclude clinics and hospitals; barbershops, beauty parlors, hairdressing and manicuring; tattoo parlors; restaurants and bars; animal hospitals; animal grooming; kennels; commercial animal breeding; taxi, limousine, or livery service or yard; contractor yard; retail, wholesale, private, or rental sales where customers visit the premises; towing or motor vehicle service; massage parlors; adult uses; funeral homes; and palm reading and fortune telling.

**Subtract, Inc. does not fit the description of any excluded occupations listed above.**

(4) All home occupation activities shall be conducted within the enclosed space of the principal building or accessory residential garage or barn. No outside storage or display is permitted.

**Subtract, Inc. is in compliance with this. See the attached floor plan for additional information.**

(5) The total floor area dedicated to the home occupation shall not exceed 30% of the gross floor area of the principal dwelling unit.

**Subtract, Inc. is in compliance with this. Our home currently has 4,000 ft.<sup>2</sup> of living space. We are mostly using garage space for business operations. Garage floor space isn't classified as livable floor space. In addition to the activities taking place in the garage, Ashley uses an existing computer on a desk in our kitchen to do administrative work for the business. We use some drawer space in said desk for corporate paperwork. Jay sometimes uses a different "gaming" computer in our office room for Subtract, Inc. business. We have a 3D printer occupying yet a third desk also in our home office room. We have owned the 3D printer since before we moved in, but it has been used for the business for prototyping purposes. See the attached floor plan for additional information.**

(6) The home occupation shall not produce or emit noise, vibrations, smoke, dust, odors, heat, or glare detectable beyond the parcel boundary, or offensive or detrimental to the immediate neighborhood.

**Subtract, Inc. is well within compliance here. I believe it would be nearly impossible to detect any activity related to the business if you were standing right next to our house, let alone the parcel boundary. Please see the attached panoramic photos detailing just how set back the dwelling is on the parcel.**

(7) No more than one nonresident employee shall be permitted to work on the premises at any one time.

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**We don't have any nonresident employees. If we experience enough success that we get to the point of needing a non-resident employee, Subtract, Inc. would likely obtain a commercial space instead so that we are not encumbered by the restrictions of the conditional use permit.**

(8) The home occupation shall not be open to the public earlier than 8:00 a.m. or later than 7:00 p.m. on any day.

**The public will not be permitted to come to our residence.**

(9) The home occupation shall not sell, produce, or dispose of any lethal, toxic, or hazardous substance.

**Subtract, Inc. complies with this.**

(10) One commercial vehicle may be used for the home occupation in addition to any personal vehicles used by members of the household. No vehicle used for the home occupation shall be larger than a cargo van or pickup truck.

**We do not have a company vehicle. We would be able to comply with the limit of 1 if we did end up buying a company vehicle.**

(11) All parking associated with the home occupation shall be in the driveway, garage, or barn where the home occupation is located. No parking, including employee or customer parking, is permitted in the street or yard.

**Subtract, Inc. is in compliance. We have enough driveway space.**

(12) No more than 12 customer vehicles shall visit the premises of the home occupation per day.

**Subtract, Inc. would be able to comply with this. We will not have any customers visiting the premises.**

(13) With the exception of alterations required for handicapped accessibility, alteration of the residential appearance of the premises to accommodate the home occupation is prohibited.

**As stated above, no modifications are planned nor are they required.**

(14) In granting a conditional use permit for a home occupation, the Planning Board may impose reasonable conditions consistent with preserving the character of the neighborhood, public health, safety, and general welfare of the community. Among the limitations which may be imposed are:

- (a) A limit on the number of visitors per hour;
  - (b) A limit on the hours and days of operation;
  - (c) A requirement that visitors must have scheduled appointments; and
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(d) Other conditions as appropriate to the application.

**We recommend adding a condition stating that no ammunition will be manufactured on-premise due to neighbor concerns. Additionally, a condition stating that no amount of explosives can be stored on-site would also be appropriate. This is already covered by the fact that we would likely not be approved for an FEL at our home, but there was some doubt during the public hearing.**

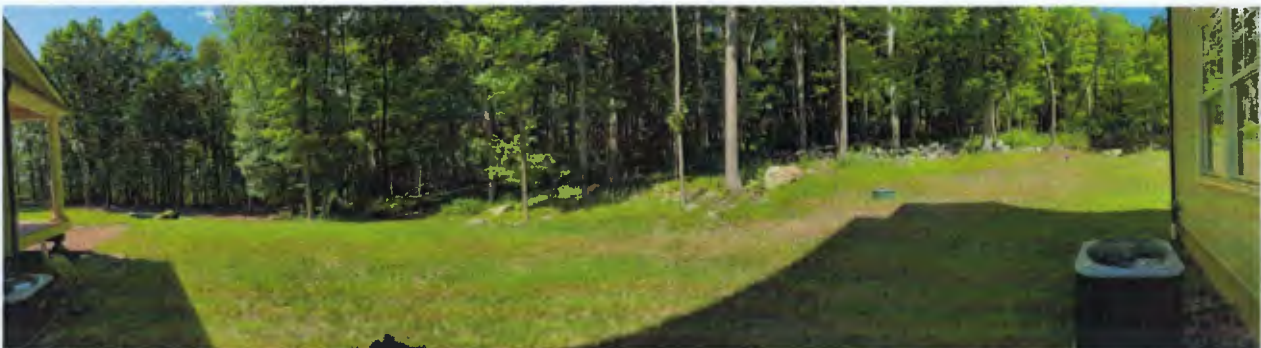
(15) Any permit granted by the Planning Board shall apply only to the use described in such permit, and it shall expire upon the termination or modification of such use or the sale of the property.

#### B. Exemptions.

(1) No permit shall be required for a seasonal yard, garage, or tag sale, or the equivalent sale of personal property on an internet based sales platform, provided that the proceeds of such sales do not qualify as a business under the Internal Revenue Service (IRS) regulations.

## VIEWS OF SETBACK OF DWELLING FROM ROADS AND NEIGHBORS

In this section you'll find 180 degree panoramic photos of each of the 4 sides of the dwelling. Please excuse the clutter in some of the photos. We are in the middle of several projects including building an upgraded playset for our boys.



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Above: Looking North-West. In this photo, you can see that no roads and no neighbors are visible.

Above: Looking North-East. There are no roads and no neighboring dwellings visible.



Above: Looking South-East. No roads and no neighboring dwellings are plainly visible. When there are no leaves on the trees, we can see 2 of my neighbors on Sherwood Hill Road through the woods and across a stream. At night when there are no leaves on the trees, vehicles on Sherwood Hill Road can be seen via their headlights.



Above: Looking South-West. It is difficult to make out from the photo at this resolution, but our neighbor's roof at 5 Welfare can be seen. From our second floor windows on this side of the house, we can just barely see the stop sign where Welfare Road meets Sherwood Hill Road. Our neighbor at 5 Welfare as well as Welfare Road itself are quite far from our dwelling in terms of distance and elevation. There is about 100' of elevation difference between our dwelling and

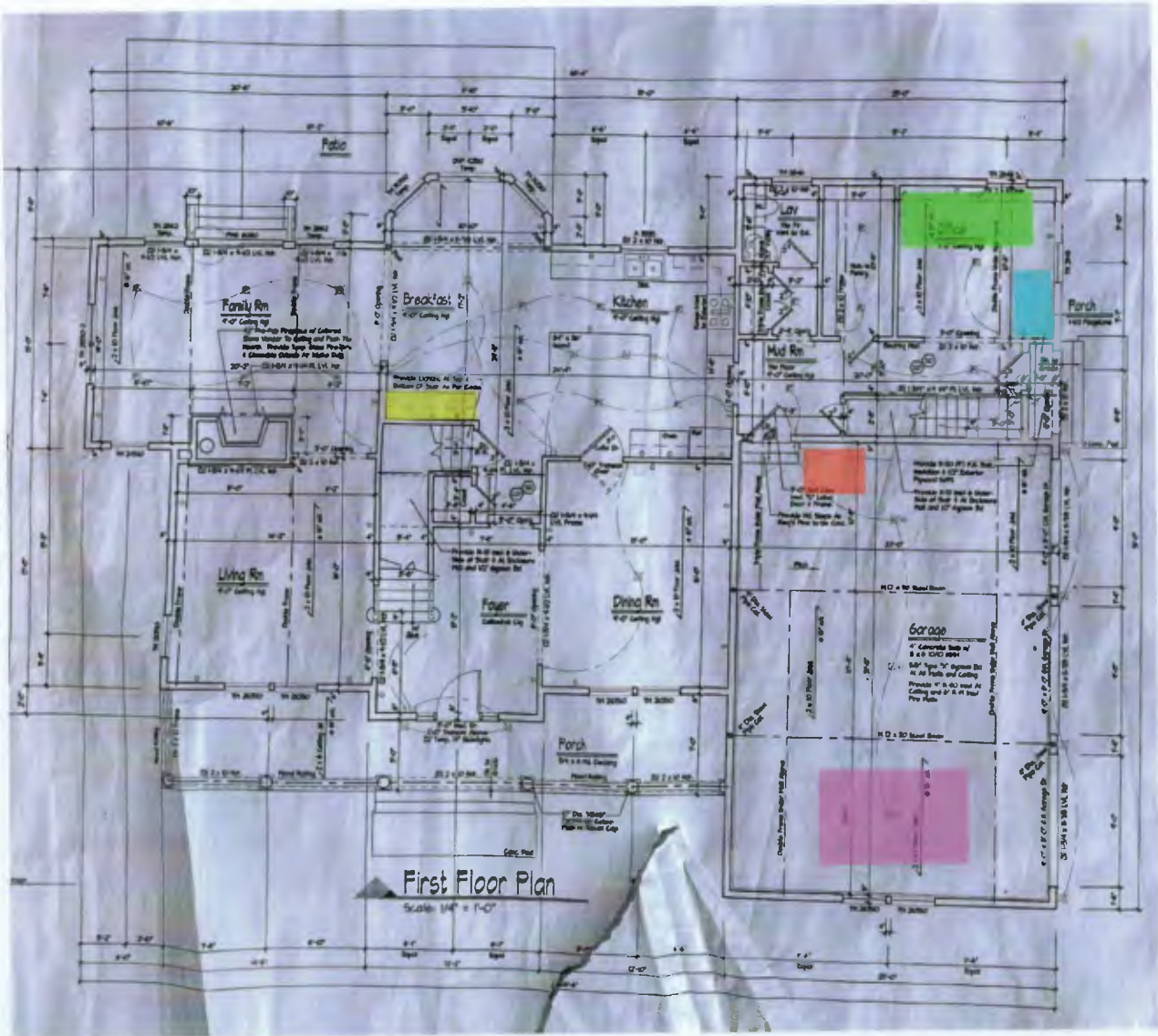
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our mailbox on Welfare Road according to topographic maps and Ashley's health app on her iPhone.

## FLOOR PLAN WITH APPROXIMATE LOCATIONS OF BUSINESS ACTIVITY

Below you find an annotated floor plan of the principal dwelling at 20 Welfare Road. Only the first floor is included since no business activity occurs (nor will it) elsewhere in the home. Please excuse the poor quality of the floor plan, as it's all we had available on short notice.



Yellow: The location of a desk in our kitchen with a computer, printer, scanner, and shipping label printer. Corporate documents are kept in drawers here.

Green: Large (8' x 4') conference table used by Jay Smith for his primary occupation. A "gaming" computer that takes up less than half of the desk space is sometimes used for business purposes.

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Blue: Small desk with a 3D printer. The 3D printer is personal, but has been used for the business.

Red-Orange: The approximate footprint of an existing Fort Knox safe weighing 1,500 l.b.s. The safe is lagged down to the concrete garage floor to prevent removal or tipping. This is in our garage, which doesn't count as livable floor space.

Purple: Proposed footprint of a Haas Mini Mill 2 CNC machine. This is in our garage, which doesn't count as livable floor space.

## REFERENCES

- [1] <https://www.haascnc.com/machines/vertical-mills/mini-mills/models/sminimill2.html>
  - [2] <https://sam.gov/opp/11fe119689880b04a742415b31472fa3/view>
  - [3] <https://www.atf.gov/firearms/firearms-guides-importation-verification-firearms-national-firearms-act-definitions-1>
  - [4] [https://en.wikipedia.org/wiki/Federal\\_Firearms\\_License#Types](https://en.wikipedia.org/wiki/Federal_Firearms_License#Types)
  - [5] <https://www.atf.gov/explosives/apply-license>
  - [6] <https://www.atf.gov/explosives/explosive-storage-requirements>
  - [7] <https://www.atf.gov/explosives/555218-table-distances-storage-explosive-materials-high>
  - [8] <https://www.ffl123.com/what-is-a-firearms-transfer/>
  - [9] <https://safeact.ny.gov/resources-gun-owners#private-sales>
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