

**SUTTONS BAY TOWNSHIP
PLANNING COMMISSION**

ZONING REPORT

APPLICATION FOR SPECIAL LAND USE PERMIT

**SOUTHWELL FARMS
PROPOSED SPECIAL EVENT FACILITY**

**For November 17, 2020 PC HEARING
Updated for December 1, 2020 Continuation**

I. REQUEST

Request from Glenn & Patty Barnes for a Special Use Permit to conduct Special Events on approximately 147 acres of agriculturally zoned property off Putnam Road in Suttons Bay Township.

According to the Application and supplemental materials, they are requesting to be permitted for the maximum number of events (4 events per month from May through October, and 3 events per month from November through April), and be allowed to have up to 300 guests per event.

The Application includes the following Site Improvements:

- Construction of an access drive off of Putnam Road with turn-arounds.
- Designated parking spaces on mowed grass areas.
- Rehabilitation of an existing barn to conduct events.
- Relocation of a historic greenhouse to the property to conduct events.
- A site next to the proposed greenhouse would be prepared for the erection of a tent to conduct events.
- Construction of a stone building to accompany the historic greenhouse.
- Construction of septic systems and water wells (or rehabilitate existing well).
- Installation of a coniferous buffer North of the barn.
- Selective clearing of a woodlot near the proposed greenhouse and tent area to enhance views of Grand Traverse Bay.

II. PROCESS

Per the Zoning Ordinance this Application is an Abbreviated Site plan review by the Planning Commission.

For the Special Use Permit to be approved, the proposed use must meet the zoning ordinance requirements of the Agricultural District, General Conditions of the zoning ordinance, Standards for Special Land Uses, and Abbreviated Site Plan Review.

A Public Hearing was noticed for the November 17, 2020 Planning Commission meeting and notices were sent out to property owners within 300’ of the subject property.

On November 17, 2020, the Public Hearing was adjourned to December 1, 2020.

III. BACKGROUND/GENERAL FINDINGS OF FACT

1. The subject property is located at the Northwest corner of Putnam Road and N. West Bayshore Dr. (M-22) and consists of two parcels; Parcel No. 45-011-002-000-00 & 45-011-003-001-00. One of the parcels has an address of 3941 N. West Bayshore Dr., Suttons Bay.
2. Parcel 45-011-003-001-00 is vacant, contains approximately 64 acres according to the Application and the 2017 Leelanau County aerial maps show that the property is approximately 2/3 wooded and 1/3 orchard crops at that time.
3. Parcel 45-011-002-000-00 contains a barn, contains approximately 83 acres according to the Application and the 2017 Leelanau County aerial maps show that the property is approximately 2/3 wooded and 1/3 open land at that time.
4. Both parcels in the subject property are zoned Agricultural.
5. The subject property is currently owned by the Annette Southwell Trust, 4401 Lynne Lane, Commerce Township, MI 48382, according to county records and the Application.
6. The Applicant has a purchase agreement with the Annette Southwell Trust on the subject property and the Application includes letter of authorization from the Trust.
7. The Annette Southwell Trust would retain ownership of adjacent Parcel No. 45-011-002-001-00.
8. The existing access drive to the barn from this adjacent parcel would be terminated.
9. The proposed access to the subject property would be from an improved driveway off from Putnam Road, at the location of an existing farm road.
10. Adjacent property zoning and land use:

<u>Direction</u>	<u>Zoning</u>	<u>Land Use</u>
East	Agricultural	Wooded/Agricultural
East(south)	Agricultural	Wooded – Graham Greene Park
North	Agricultural (Leelanau Twp.)	Residential/wooded
Northeast	R1 (Leelanau Twp.)	Residential/wooded
Northwest	Agricultural (Leelanau Twp.)	Agricultural
West	Agricultural	Agricultural
Southwest	Agricultural	Residential/wooded
South	Residential	Residential

IV. AGENCY APPROVALS

- The Applicant made application with the Leelanau County Road Commission for a driveway access into the subject property, and received a permit for a commercial driveway.
- The Leelanau County Drain Commissioner visited the site and submitted a preliminary letter that was included with the Application Packet. A Soil Erosion Permit will be necessary for all grading work performed on the Site.

- The Benzie Leelanau District Health Department Permit has performed a Site Survey (included with the Application Packet) on the property and identified areas acceptable for on-site septic. A Well and Septic Permit will be required prior to construction.
- The Application packet included email correspondence with the Suttons Bay-Bingham Fire Chief. He has reviewed the site.
- The Leelanau County Department of Building Safety must review and approve the plans for the proposed barn rehabilitation, proposed historic greenhouse, and the proposed stone headhouse building. This department will establish occupancies for these structures.

V. CONFORMANCE WITH ZONING ORDINANCE REQUIREMENTS

1. ARTICLE 4 – AGRICULTURAL DISTRICT REQUIREMENTS

A. Section 4.4.O – Special Events are a Special Land Use in the Agricultural Zoning District:

Special Events (Annotation: Subsection added by Amendment 16-001 effective May 27, 2016)

It is the principle intent of this section to continue the support of active agriculture in Suttons Bay Township. In addition, the Planning Commission may grant a special land use permit for special events to property owners to diversify the uses of their land so long as the community's scenic and rural character is preserved. Any special event for over sixty (60) people requires a special land use permit for special events.

The Planning Commission will review applications for special events on a case by case basis, and may impose additional conditions based upon site topography, layout, existing vegetation, and the potential impact on the surrounding properties as well as any other condition deemed important by the Planning Commission. The provisions of Article 19 Site Plan Review and Article 20 Special Land Use Permits must be met.

Special events are secondary to the primary use of the property. The primary goal for zoning in this district is to encourage and maintain agriculture as part of a balanced and diversified economy. When permitted, special events should have minimal impact on other properties and its residents, and on the ongoing active agriculture practices in the district.

Special land use permits run with the land and are binding on the land owner, their successors, heirs, and assigns. If at any time during the existence of the special land use permit(s) permitted, the lot(s) and/or structures are used contrary to the conditions and provisions of the permit, said use shall be deemed a zoning violation and the permit shall be considered revoked as per Section 20.19 Binding Effect.

These activities may be permitted provided:

1. *The number of special events of more than sixty (60) people shall be determined by the Planning Commission at Site Plan Review and shall not exceed four (4) per month during the months of May through October, and not more than three (3) during each of the other months.*

The Applicant is requesting the maximum number of events of four per month from May through October (24 events), and three per month from November through April (18 events), for an annual total of 42 events.

2. Parcel requirements:

- a. The parcel must be a Commercial Farm of at least twenty-five (25) acres with a minimum lot width of at least three hundred twenty-five (325) feet; or
(Annotation: Section amended by Amendment 17-001, effective April 29, 2017)

1. **Acreage: The two parcels comprising the Application have an approximate total size of 147 acres. Requirement met.**
2. **Lot Width: The width of the parcel as defined by the zoning ordinance is over 1180 feet. Requirement met.**
3. **Does the subject property meet the definition of a Commercial Farm?**

• **Definition:**

COMMERCIAL FARM: a farm which had produced agricultural or horticultural products worth \$2,500 or more annually for at least three of the past five years.
(Annotation: Definition added by Amendment 17-001, effective April 28, 2017)

- **For this discussion, the “Farm” includes the subject property, which consists of two parcels, 45-001-002-000-00, and 45-001-003-001-00. (147 acres)**
- **The Applicant submitted a letter from the current owners, Randy Southwell and Gail Koch stating that the property has been worked as a commercial farm until the 2020 year.**
- **2017 aerial maps from Leelanau County Equalization show orchards on parcel no. 45-011-003-001-00.**
- **A neighbor of the subject parcel, Barbara Hagan, questioning the commercial farm status due to the assessing classification of one of the properties. The assessing classification does not determine if a property is a Commercial Farm.**
- **Mrs. Hagan also questioned whether the property had been farmed in 2019.**
- **Mrs. Hagan submitted a video of the property.**
- **During the November 17, 2020 Planning Commission Meeting and Public Hearing, it was publicly stated that Cherry Bay Orchards had a lease on the property through 2019.**
- **Did the Farm produce at least \$2500 in agricultural products in at least three of the following years: 2020, 2019, 2018, 2017, 2016?**

Continuation of the Commercial Farm should be a condition of any permit.

- b. A parcel with an approved Special Land Use Permit for a Winery or Cidery per Section 4.4.J. (Not Applicable)

(Annotation: Section amended by Amendment 16-003, effective February 24, 2017)

3. Buildings and setbacks:

(Annotation: Section amended by Amendment 17-001, effective April 29, 2017)

- a. *Special events taking place in a structure must be within a building built before May 27, 2016 (effective date of amendment) or in a permitted winery or cidery as per Section 4.4.O.2.b.*

The Application proposes that Special Events would be held in three locations:

- 1. A renovated barn. (meets this Section)**
- 2. A tented area. (meets this Section)**
- 3. A historic greenhouse that would be relocated to the property.**

- **The Applicants are proposing the use of a re-located historic greenhouse building to host events. According to the Application, this building was originally constructed in 1927, and would be re-located to this site.**
- **Should the language above be interpreted to mean that Special Events taking place in a structure must be within an EXISTING building built before May 27, 2016 on-site?**
- **Did the Planning Commission intend to prevent new buildings, but leave open the option for historic buildings?**
- **According to the Applicant, the historic greenhouse would primarily be used for agricultural purposes.**
- **The Applicant has submitted their own brief in support of an interpretation for using the re-located greenhouse for special events. In this brief they also state that the greenhouse will primarily be used for agricultural purposes.**
- **The Zoning Ordinance Amendment approved in 2017 that added this section did not go through a legal review.**
- **Is it legal to only allow a Use if it is conducted within an existing building?**

Interpreting language in the zoning ordinance typically involves looking at the strict & literal meaning of the term, context of how the term is used in the ordinance, and the intent of the legislative body when they approved the language:

1. Strict & Literal meaning of the word or term:

- **“built” means made, formed or shaped in a specific way.**
- **It can be argued that the proposed historic greenhouse was “built” prior to May 27, 2016.**

2. Context of the term in the ordinance:

- **In paragraph c of this same section, the term “preexisting structure built before...” is used. That phrase clearly defines that the structure needed to be existing on the site. The addition of the term “preexisting” is important.**

- There are no other places in the zoning ordinance where there is a requirement a building must be “built by” a certain date in order to be used for a specific Use.

3. **Intent of the PC when they amended the language in 2017.**

- When the language was amended, the Planning Commission was obviously concerned about Special Event venues popping up all over the township. Staff was receiving several calls with interest in opening up event venues.
- Section 4.4.O states that special events were to be secondary to the primary use of the property, although the amendment established a relatively low threshold to qualify as a Commercial Farm.
- Section 4.4.O also states that special events, when permitted, shall have minimal impact on other properties. It can be argued that events in a building would have a lesser impact on the area than events held in an open tent.
- The PC should consider how a limit on buildings meets the intent of Section 4.4.O.

b. *All buildings, structures, and tents, open to the public shall be set back at least one hundred (100) feet from any lot line.*

- **All proposed event locations (the barn, greenhouse, and tent area are more than 100 feet from any property line.**

c. *Preexisting structures built prior to the date of the adoption of this Ordinance (1993) that are located within the one hundred (100) foot setback may be approved for use of special events, subject to site plan review by the Planning Commission.*

- **Not Applicable**

d. *The Planning Commission may require greater setbacks if necessary to buffer adjacent properties as determined during the Special Land use permit process.*

- **During discussion of Article 20, Special Use Permit Standards, the PC will need to discuss any need for greater setbacks.**

4. *All activities must be completed by 11:00 PM. Any music or entertainment provided for the event must be for background purposes only, not a featured segment of the activity, and completed by 9:00 PM on Sundays through Thursday and 10:00 PM on Friday and Saturday. Sound amplifiers are permitted only as determined in Site Plan review.*

- **Would be a condition of approval.**

5. *Parking areas shall be off-road, forty (40) feet from all lot lines. There shall be no parking on county or state roads. Parking may be located on non-paved areas. All parking shall meet the parking standards as outlined in Section 3.15 Off Street Parking and Loading. Parking must be screened from neighboring properties as required in Section 3.12 Landscaping, Screening, Buffers and Greenbelts. Emergency access to and within the site shall be maintained at all times throughout the event.*

- **Proposed parking is more than 40' from the property lines.**
 - **Parking would be primarily on mowed grassy areas, although handicap parking areas would be graveled or paved.**
 - **There is adequate room for extra parking if needed.**
 - **PC needs to determine if proposed parking will be screened from neighboring properties.**
 - **Is parking lot landscaping required for non-paved grass parking areas?**
 - **Maintaining emergency access at all times would be a condition.**
6. *Entrance from the public road must be approved by the County Road Commission or Michigan Department of Transportation with concurrence from the Suttons Bay Township Planning Commission as part of the site plan review process.*
- **Road Commission Permit would be a Condition of Approval**
 - **Does the PC approve the driveway location?**
7. *The operator must have a written statement from the County Health Department indicating the maximum number of persons that can be accommodated with existing toilet facilities. Additional portable toilets must be provided for any guests exceeding the aforementioned number.*
- **There are no existing toilet facilities on-site.**
 - **The Applicant plans on providing bathrooms.**
 - **According to the Application, they do not plan on utilizing any temporary toilet facilities.**
8. *The applicant shall maintain a log of the activities including dates, group identity, times and number of guests. This list must be signed and certified by the permit holder as to its accuracy and submitted to Suttons Bay Township annually, no later than March 1 for the previous calendar year.*
- **Would be a condition of approval.**
9. *Equipment and materials related to the special events must be stored within a structure or removed from the site when not in use.*
- **Would be a condition of approval.**
10. *All lighting shall meet the Outdoor Lighting Standards as outlined in Section 3.18 Outdoor Lighting Standards.*
- **Would be a condition of approval.**
11. *All signs shall meet the sign standards as outlined in Section 3.17 Signs.*
- **Would be a condition of approval.**
12. *Site landscaping requirements must be met as required in Section 3.12 Landscaping, Screening, Buffers and Greenbelts.*
- **The perimeter of the subject property is heavily wooded**
 - **The Applicant is proposing to plant an additional buffer on the north.**
 - **The Applicant is proposing the use of a sound barrier for music.**
 - **Is additional landscaping and/or screening required?**
 - **Maintaining the existing buffers should be a condition of approval.**

13. A Site Plan must be approved by the Planning Commission at a Public Hearing. The following information must be provided in addition to information required for Minor Project Site Plan Review as per Section 19.6.

- **Done**

VI. PLANNING COMMISSION REVIEW:

The Planning Commission, as a group, must go through the following standards and make findings:

The findings can show that the Application meets/does not meet/or meets with the establishment of conditions.

The Planning Commission can establish reasonable conditions pursuant to Section 20.9 of the Ordinance.

VII. FINDINGS OF FACT RELATED TO SPECIAL LAND USES:

SECTION 20.8 GOVERNING STANDARDS

In deciding to grant or to deny a special land use application, the Commission shall establish that the following standards shall have been satisfied, together with all other requirements of the Ordinance. The standards enumerated herein are intended to promote the intent and purpose of the Ordinance and to ensure that the land use or activity authorized shall be compatible with the zoning district, the adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed land use. These standards shall ensure that the proposed land use or activity is consistent with the public health, safety and welfare of the Township.

Each of the proposed special land uses on the proposed location shall:

- A. Meet all the specific requirements of the particular special land use contained in the zoning district for which the special land use is proposed.
- B. Be designed, constructed, operated and maintained so that such use will not change the essential character of the zoning district and surrounding vicinity in which it is proposed.
- D. Be served adequately by essential public facilities and services, including but not limited to highways, streets, off-street parking, police, fire protection, drainage district, refuse disposal, water and sewage facilities, schools, etc.
- E. Not unduly burden the capacities, or negatively impact public services and facilities affected by the proposed special land use, nor result in excessive additional public cost for the creation of facilities and services not otherwise available.
- F. Not adversely affect the natural environment, especially any creek, stream, lake, pond, wetlands area, floodplain or the groundwater.

- G. Not adversely affect farmland or farming operations, but to the extent practicable preserve it as open space or provide adequate buffering between the special land use and farmland.
- H. Demonstrate in the site plan that there exists sufficient protection to ensure that there will be no additional storm water runoff created by the proposed special land use; or that adequate and full measures have been taken to accommodate such storm water runoff on the proposed site location. For purposes of this standard the receipt of a Soil Erosion permit or Drain Commissioner’s review shall satisfy this requirement.
- I. Provide that the special land use including off-street parking, loading and unloading areas, outside storage areas, and areas for the storage of trash, which face or are visible from neighboring property or public thoroughfares, shall be screened in accordance with Section 3.12 Landscaping, Greenbelts, Buffers, Screen, and Fences.
- J. Conform to the requirements of Section 3.18 Outdoor Lighting Standards.
- K. Not be hazardous to adjacent or neighboring properties, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or to adjacent and neighboring properties, through the excessive production of traffic, noise, smoke, odor, fumes, or glare.
- L. Be in compliance with the requirements of the district in which it is proposed and with all other standards in this Ordinance, as well as with the requirements of the County Road Commission, County Building Inspector, County Drain Commissioner, District Health Department, Leelanau County Soil Erosion Control Officer, Suttons Bay/Bingham Fire Department, DNR, and other applicable Township, County, State, and Federal statutes.

VIII. POSSIBLE CONDITIONS BASED UPON PAST PROJECTS:

Items needed prior to execution of the Special Land Use Permit:

- 1. The following items must be submitted prior to execution of the Special Land Use Permit by the Zoning Administrator:
 - A. Revised Site Plan showing any minor changes required by Agencies.
 - B. Health Department Permit for Septic and use of well.
 - C. Soil Erosion Permit.
 - D. Architectural Plans for any structural work, including the barn improvements, additions, bathrooms, and greenhouse.

Number of Events and Occupancy:

- 2. The number of allowable events and occupancy shall be limited as follows:
 - A. The maximum number of special event guests on the premises at any time shall not exceed three hundred (300). (or another number established by the Planning Commission)
 - B. Some other townships have limited the number of events that are allowed to have the maximum number of guests. (for instance, limiting the number of events having guests of over 150 or 200)

- C. The maximum number of Special Events of over sixty (60) guests shall be no greater than four (4) per month during the months of May through October, and not greater than three (3) per month in the months of November through April.

General Conditions:

3. All applicable requirements of any county, state, and federal permits and statutes shall be met.
4. Approval of Special Events is contingent on the facility maintaining status as a Commercial Farm as defined in the zoning ordinance.
5. The access drive, parking areas, and proposed tree plantings shall be completed prior to conducting any Special Events.
6. Maintenance of a wooded buffer shall be maintained on the North and South property lines. Selective cutting along the East property line is allowed to enhance the views. Forestry Management is allowed on the woodlots.
7. An additional coniferous buffer shall be planted and maintained north of the barn as shown on the Site Plan.

Hours of Operation

8. Per the Zoning Ordinance, all activities must be completed no later than 11:00 p.m.
9. Per the Zoning Ordinance, any music or entertainment must be completed by 9:00 PM on Sundays through Thursday and 10:00 PM on Friday and Saturday.

Parking

10. There shall be no special event parking allowed at any time on Putnam Road.
11. Parked vehicles within the facility shall not block emergency access routes at any time. Emergency access and fire lanes shall be maintained at all times.
12. Parking attendants shall be present to assist guests with parking when there are over seventy-five (75) total guests in attendance at events on the property. (Given the large acreage of this parcel, parking attendants may not be necessary and can be accomplished by signage)
13. Outside transportation or shuttle services shall be offered and encouraged for special events.

Sound/Music

14. Per the zoning ordinance, any music or entertainment provided for the activity must be for background purposes, and not a featured item of the activity.
15. Sound levels from the activity measured at any property line shall not be over _____ decibels. (Note: Bingham Township used 55 decibels on a recent project – most charts indicate that 60

decibels is normal conversation level.)

16. Condition on location and orientation of music or speakers? (inside? / direction?)
17. Use of sound panels is required to direct sound as indicated on the Application.
18. There shall be no outside amplified sound after 8:00 p.m.
19. Southwell Farms shall provide Suttons Bay Township with the phone number of an on-site manager who has the authority to correct any noise issues.
20. Upon execution of the Amended Special Use Permit, the Zoning Administrator shall send written notification to neighboring property owners within 300' of the property notifying them of the conditions of the permit, including the event managers contact information.

General

21. Any outdoor lighting shall be shielded downward and shall meet the requirements of the zoning ordinance. (Any outdoor lighting for special events shall be turned off within one hour after the end of the event.)
22. Any signage, including temporary or portable signage, shall be in compliance with the zoning ordinance.
23. A log of special events and activities occurring at the facility shall be maintained including dates, group identity, times, and number of guests. This log shall be submitted to Suttons Bay Township annually, no later than March 1 for the previous calendar year.

Expiration Dates

24. This amendment approval shall expire if any one of the following events occur:
 - A. If the items that are required for submittal under condition 1 are not submitted to Suttons Bay Township within one (1) (or two) years from this approval.
 - B. If, after this approval, the owner fails to conduct any special events or activities with three (3) years from the date of this approval.
 - C. If, after special events are started, they are discontinued for a continuous period of two (2) years.