

**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

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.

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.

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 the 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 orchard crops at the 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 proposed access to the subject property is from Putnam Road.
9. 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 has made application with the Leelanau County Road Commission for a driveway access into the subject property. (included with Application packet)
- 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.

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 as outlined above

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)

- **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)

- **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 show orchards on the property.**
- **An email was received from a neighbor, 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.**
- **In the same email Mrs. Hagan also questioned whether the property has been farmed in 2019.**
- **Unless other information is provided contrary to the owner's statement, the Application appears to meet this standard.**
- **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 Applicants are proposing the use of a 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.**
- **The proposed relocated building was obviously “built” before May 27, 2016.**
- **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?**
- **The Applicant 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.**

Interpreting language in the zoning ordinance

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 was important in determining that.**

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

- **Special Events were to be secondary to a primary use.**
- **On a Commercial Farm, you could conduct events in an erected tent, but not in a building constructed for that purpose.**
- **There are no other places in the zoning ordinance where you cannot build a building for an allowed or special use.**

- 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 non-paved areas.**
 - **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 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.*

PLANNING COMMISSION:

The Planning Commission, as a group, needs to go through these standards and make findings:

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. Road Commission Permit
 - 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).
 - B. 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 the existing wooded buffers shall be maintained.

Hours of Operation

7. Per the Zoning Ordinance, all activities must be completed no later than 11:00 p.m.
8. 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

9. There shall be no special event parking allowed at any time on Putnam Road.

10. 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.
11. 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.
12. Outside transportation or shuttle services shall be offered and encouraged for special events.

Sound/Music

13. 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.
14. Sound levels from the activity measured at any property line shall not be over _____
15. Condition on location and orientation of music or speakers? (inside? / direction?)
16. Use of sound panels is required to direct sound as indicated on the Application.
17. There shall be no outside amplified sound after 8:00 p.m.
18. 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.
19. 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

20. Any outdoor lighting shall be shielded downward and shall meet the requirements of the zoning ordinance.
21. Any signage, including temporary or portable signage, shall be in compliance with the zoning ordinance.
22. 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

21. 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 within one (1) year from this approval.

- B. If, after this approval, the owner fails to conduct any special events or activities with two (2) 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.